

Appendix A

Australian Legislation including the Precautionary Principle

Some of the legislation listed includes the precautionary principle explicitly, and some refers to it incidentally by providing for ecologically sustainable development as defined in the National Strategy for Ecologically Sustainable Development or the Inter-Governmental Agreement on the Environment.

Jurisdiction	Legislation	Section	Formulation
FED	<i>Environment Protection and Biodiversity Conservation Act 1991</i>	391(2) – Minister must consider precautionary principle in making decisions	The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage
FED	<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	Schedule 7 – Australian Biosphere Reserve Management Principles; Schedule 8 – Australian IUCN Reserve Management Principles	Decision making must be consistent with the precautionary principle
FED	<i>Fisheries Management Act 1991</i>	3 - objectives of the Act	Same as 3.5.1, IGAE
FED	<i>Fisheries Administration Act 1991</i>	6 - objectives	Same as 3.5.1, IGAE
FED	<i>Great Barrier Reef Marine Park Act 1975</i>	39Z – must have regard to the precautionary principle when preparing management plans	Same as 3.5.1, IGAE
FED	<i>Gene Technology Act 2000</i>	4(aa) - Objects	Where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation

Jurisdiction	Legislation	Section	Formulation
FED	<i>Natural Heritage Trust of Australia Act 1997</i>	21 – things Minister must consider when considering proposal to spend money	If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
FED	<i>Renewable Energy (Electricity) Act 2000</i>	5 (definitions section) ‘ecologically sustainable’ – part of the definition	As above
NSW	<i>Fisheries Management Act 1994</i>	30 – consideration for Total Allowable Catch Committee to take into account	If there are threats of serious or irreversible damage to fish stocks, lack of full scientific certainty should not be used as a reason for postponing measures to prevent that damage
NSW	<i>Environmental Planning and Assessment Regulation 2000</i>	Schedule 2 cl 6(1)(a) – principle of ESD	If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
NSW	<i>Contaminated Land Management Act 1997</i>	10 – principle of ESD	As above
NSW	<i>Protection of the Environment Administration Act 1991 (PEAA)</i>	6(2) – principle of ESD	As above
NSW	<i>Local Government Act 1993</i>	Dictionary – principles of ecologically sustainable development”	As above
NSW	<i>Native Vegetation Conservation Act 1997</i>	4 – Definitions and notes –principles of ecologically sustainable development	As above
NSW	<i>Coastal Protection Act 1979</i>	4 – Definitions – defines ESD to include precautionary principle as in s 6(2) PEAA; 27, 37A and 57A require consideration of ESD	As above

Jurisdiction	Legislation	Section	Formulation
NSW	<i>Landcom Corporation Act 2001</i>	6 – principle objectives of corporation – defines ESD to include precautionary principle as in s 6(2) PEAA; 27, 37A and 57A require consideration of ESD	As above
NSW	<i>Fire Brigades Act 1989</i>	10A – Commissioner to have regard to ESD, which includes precautionary principle as in s 6(2) PEAA	As above
NSW	<i>National Parks and Wildlife Act 1974</i>	5 – Definitions – defines ESD to include precautionary principle as in s 6(2) PEAA; objects section 2A(2); 91CC	As above
QLD	<i>Water Act 2000</i>	11(b) – included as a principle of ESD, an element of sustainable management of water, the purpose in s 10.	If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
QLD	<i>Integrated Planning Act 1997</i>	1.2.3 ss1(a)(iii) and ss(2): advancing the Act's purpose includes the precautionary principle	The precautionary principle is the principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage.
QLD	<i>Coastal Protection and Management Act 1995</i>	3 (objects) includes esd as in the NSESD	Same as National Strategy
QLD	<i>Wet Tropics World Heritage Protection and Management Act 1993</i>	10(6) Authority must as far as possible carry out functions in accordance with National Strategy	Same as National Strategy
QLD	<i>Vegetation Management Act 1999</i>	3(2)(d) – framework for decision-making to achieve Act's objects	Lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage

Jurisdiction	Legislation	Section	Formulation
QLD	<i>Fisheries Act 1994</i>	3(1)(b) (purposes) lists ESD; s 3(3) definition of 'principles of ecologically sustainable development' (i)	Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by: (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and (ii) an assessment of the risk-weighted consequences of various options.
QLD	<i>Environment Protection Act 1994</i>	3 – object is ESD, defined as in National Strategy	Same as National Strategy
SA	<i>Environment Protection Act 1993</i>	10(1)(B)(iv) – in the objects section	To apply a precautionary approach to the assessment of risk of environmental harm and ensure that all aspects of environmental quality affected by pollution and waste (including ecosystem sustainability and valued environmental attributes) are considered in decisions relating to the environment
SA	<i>Lake Eyre Basin (Intergovernmental Agreement) Act 2001</i>	Schedule Pt 3 "Guiding Principles": s 3.1(g)	That precautionary approaches need to be taken so as to minimise the impact on known environmental attributes, and reduce the possibility of affecting poorly understood ecological functions
SA	<i>Aquaculture Act 2001</i>	4(2)(b)	If there are threats of serious or irreversible environmental harm, lack of full scientific certainty should not be taken to justify the postponement of decisions or measures to prevent the environmental harm.

Jurisdiction	Legislation	Section	Formulation
SA	<i>Gene Technology Act 2001</i>	4(aa) – regulatory framework to achieve object	Where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation
VIC	<i>Environment Protection Act 1970</i>	1A: purpose of Act environmental protection, one of the principles of which is the precautionary principle: s 1C	Same as IGAE
VIC	<i>Gene Technology Act 2001</i>	4(aa) regulatory framework to achieve object	Same as IGAE
VIC	<i>Commissioner for Environmental Sustainability Act 2003</i>	S 4(3)(b) guiding principle of ESD	If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
VIC	<i>Sustainable Forests (Timber) Act 2004</i>	5(3)(b) principle of ESD	As above
WA	<i>Forest Products Act 2000</i>	Listed as a principle of ecologically sustainable forest management in s 12(2)(b) – principles on which the Commission is to act.	That if there are threats of serious or irreversible environmental damage, the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
WA	<i>Conservation and Land Management Act 1984</i>	19(2)(b) – functions of conservation commission	As above

Jurisdiction	Legislation	Section	Formulation
WA	<i>Environmental Protection Act 1986</i>	4A(1) – object of the Act	Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, decisions should be guided by (a) careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and (b) an assessment of the risk-weighted consequences of various options.
TAS	<i>Environmental Management and Pollution Control Act 1994</i>	Schedule 1 (Objectives): 3(h)	To adopt a precautionary approach when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial uses of the environment, are considered in assessing, and making decisions in relation to, the environment
TAS	<i>Gene Technology Act 2001</i>	6(a) – regulatory framework to achieve object	Where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation
ACT	<i>Independent Competition and Regulatory Commission Act 1997</i>	20(2)(f)	If there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
ACT	<i>Planning and Land Act 2002</i>	74(a) – elaborates meaning of ESD, which is an object of the Act	As above

Jurisdiction	Legislation	Section	Formulation
ACT	<i>Waste Minimisation Act 2001</i>	6(2)(a) – elaborates meaning of ESD (objects to be achieved in accordance with ESD)	As above
ACT	<i>Auditor-General Act 1996</i>	12(3)(a) – performance audits to take into account ESD principles, including precautionary principle	
ACT	<i>Financial Management Act 1996</i>	11(6)(a) – elaborates meaning of ESD, which must be taken into account in a proposed budget	If there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
ACT	<i>Territory Owned Corporations Act 1990</i>	7 – elaborates on the meaning of ESD, which is an objective of Territory owned corporations	As above
ACT	<i>Environment Protection Act 1997</i>	3(1)(p) – statement of objects	To adopt a precautionary approach when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial use of the environment, are considered in assessing, and making decisions in relation to, the environment