

Policy costing

Financial Costings for a Commonwealth Environment Protection Agency	
Person/party requesting the costing:	Mr Andrew Wilkie MP, Member for Clark
Date costing completed:	28 April 2023
Expiry date of the costing:	Release of the next economic and fiscal outlook report.
Status at time of request:	Submitted outside the caretaker period
	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Not confidential
<p>Summary of proposal:</p> <p>This proposal has 2 options to establish an Environment Protection Agency (EPA) that would both have effect from 1 July 2024 and would be ongoing.</p> <p>Option 1</p> <p>This option would establish an EPA with a <u>mixed fee funding model</u> which includes Government funding and revenue from non-Government sources.</p> <p>The EPA would include:</p> <ul style="list-style-type: none"> • Component 1 costs to establish an EPA as an independent statutory authority and the associated on-going operational costs for the agency. This includes 5-yearly operational costs including staffing, administration, effective data use, information and education services, appropriate and timely assessment and determination under the Environment Protection and Biodiversity Conservation Act (EPBC) 1999, engaging in efficient and effective compliance operations – including general monitoring and targeted investigations, and encouraging higher performance. • Component 2 appropriate funds for strategic litigation functions for the EPA. • Component 3 an alternative governance model with a statutory Board appointed by the Minister subject to legislative criteria on required skills and qualifications, which will appoint the Chief Executive Officer (CEO). <p>Option 2</p> <p>All components as per option 1, however under this option the funding model is based on activities being <u>fully funded by Government</u>.</p>	

Costing overview

The options in the proposal would decrease the fiscal balance by between \$118.5 million and \$158.6 million and the underlying cash balance by between \$128.5 million and \$158.6 million over the 2022-23 Budget forward estimates period. Both options would be expected to have an ongoing impact beyond the 2022-23 Budget forward estimates period. A breakdown of the financial implications (including separate public debt interest (PDI) tables) over the period to 2032-33 is provided at Attachment A.

The Parliamentary Budget Office (PBO) considers that any revenue associated with penalties associated with EPA enforcement of the environmental protection act is unquantifiable due to the uncertainty of the magnitude and timing of any penalties.

The financial implications of the proposal are highly sensitive to assumptions around EPA functions, responsibilities and how they are managed. The legislation for the EPA and the form the agency will take have

not been finalised and may end up being different to what the PBO has costed in this proposal. The financial implications in the costing are sensitive to:

- the level of staffing required for the agency to fulfill its responsibilities regarding monitoring, assessment, and accreditation.
- legal costs associated with enforcement, litigation, and strengthening environmental regulation.
- the cost recovery mechanism. If the agency uses a mixed funding model, a liquidity risk is present that may result in a shortfall of revenue required to managed operational demands. It is likely that a portion of the revenue from non-Government sources cash receipts would be received in subsequent financial years.

Table 1: Financial Costings for a Commonwealth Environment Protection Agency – Financial implications (\$m)^{(a),(b)}

	2022-23	2023-24	2024-25	2025-26	Total to 2025-26
Option 1: Mixed Funding					
Fiscal balance	-	-	-19.0	-99.5	-118.5
Underlying cash balance	-	-	-19.0	-109.5	-128.5
Option 2: Government Funding					
Fiscal balance	-	-	-19.0	-139.6	-158.6
Underlying cash balance	-	-	-19.0	-139.6	-158.6

(a) A positive number represents an increase in the relevant budget balance; a negative number represents a decrease.

(b) PDI impacts are not included in the totals.

- Indicates nil.

The creation of a new agency often involves extensive parliamentary negotiation to finalise legislation. Additionally, given the interactions this agency would have with the states and territories and the need to minimise overlap between agencies, there is significant risk of scope change. Attachment B shows sensitivity of the costing to changes in scope.

Key assumptions

The PBO has made the following assumptions in costing this proposal.

Option 1:

- The EPA would recover costs through revenue from service charges and fees. A new cost recovery implementation statement (CRIS) would be established. Costs recovered would be approximately 20% of total Government funding, based on similar EPAs in Australia.
- An unquantifiable amount of revenue would be recovered from penalties and fines which would be redirected to the consolidated revenue fund.

Option 2:

- The EPA would be fully funded through government appropriations.
- An unquantifiable amount of revenue would be recovered from penalties and fines which would be redirected to the consolidated revenue fund.

Component 1

- Capital start-up costs would be incurred in 2024-25 to secure and fit out the required office space.

- The Environmental Regulation program (presently *program 2.5: Environmental Regulation*) would be transferred through a machinery of government (MoG) process to the EPA.
- Additional funding would be required for additional staffing and capital expenses to strengthen enforcement, monitoring, compliance, assessments, and accreditation functions, alongside core organisational functions and requirements.
 - Program costs would increase in line with wage cost index (WCI) 3 over the medium term, similar to related programs.

Component 2

- Additional funding is required for strategic litigation which has been based on existing funding for the legal enforcement and management of the *EPBC Act 1999* and scaled for additional workload.
 - Funding would be indexed by wage cost index (WCI) 3.

Component 3

- The EPA statutory Board would require 9 members (1 Chair, 1 Deputy Chair and 7 Board members) over the medium term.
- All members of the EPA Board would be subject to legislative criteria on required skills and qualifications, alongside the capacity to appoint the EPA CEO.
- Average board term would not exceed 5 years and reappointment could only occur once.
- Annual fees and remuneration would be similar to similar science related boards, and would increase in line with wage price index (WPI).
- Recruitment, travel, and additional costs would remain in line with the historical average for science related boards as set by the *Remuneration Tribunal Determination 2022*.
 - This would remain in line with consumer price index (CPI) over the medium term.
- A recruitment round would be run every 5 years (average board member's tenure is five years) with a smaller recruitment round run between the larger 5 yearly rounds.

Methodology

Options

The non-government revenue was estimated using a state level Environment Protection Agency average historical revenue as a percentage of total Government funding over 5 years. For option 1 the fiscal and underlying cash balances reflect timing differences between when non-tax revenue is recognised and when non-tax revenue receipts are collected. There is no timing impact for option 2.

Component 1

Establishment costs were estimated based on similar programs.

The departmental and administered operating expenses were calculated based on the historical average for *program 1.5: Environmental Regulation*, which was scaled to account for additional resourcing and operational expenses. The total value for the departmental and administered programs were indexed in line with WCI 3 over the medium term which aligns with similar programs.

Component 2

Costs are estimated based on the legal costs associated with administering the *Environmental Protection and Biodiversity Act 1999*, then scaled to reflect the EPA's mandate to strengthen enforcement and compliance of environmental regulations.

Component 3

The financial implications associated with the EPA Board are based on:

- Annual fees paid to members as per similar boards detailed in the *Remuneration Tribunal Determination 2022*.
- Recruitment costs (includes advertising materials).
- Travel and meal costs based on the *Official Travel Determination 2022*.

The transfer of funding from DCCEWW to the EPA was estimated based on estimates of operational funding associated with *program 2.5: Environmental Regulation*.

Financial implications were rounded consistent with the PBO's rounding rules as outlined on the PBO Costings and budget information webpage.¹

Data sources

New South Wales Environment Protection Agency (2022) [Our Board and Executive 2021-22](#), accessed 19 April 2023

New South Wales Environment Protection Agency (2022) [Our Financial Overview](#), the NSW Government, accessed 20 April 2023

The Australian Government (2020) [2019-20 Portfolio Additional Estimates Statement](#), the Australian Government, accessed 20 April 2023

The Australian Government (2023) [Remuneration Tribunal \(Remuneration and Allowances for Holders of Part-time Public Office\) Determination 2022](#), accessed 19 April 2023

The Australian Government (2022) [Remuneration Tribunal \(Official Travel\) Determination 2022](#), accessed 19 April 2023

The Department of Climate Change, Energy, the Environment and Water provided data on the strategic litigation and legal expenses.

The Department of Finance and the Treasury provided the economic parameters as at the 2022-23 (October) Budget.

¹ [Online budget glossary – Parliament of Australia \(aph.gov.au\)](#)

Attachment A – Financial Costings for a Commonwealth Environment Protection Agency – financial implications

Table A1: Financial Costings for a Commonwealth Environment Protection Agency – Option 1 [Mixed Funding] – Fiscal balance (\$m)^(a)

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
Revenue													
<i>Administered non-tax</i>													
<i>Penalties and Fines</i>	-	-	-	*	*	*	*	*	*	*	*	*	*
<i>Departmental non-tax</i>													
<i>Service charges and fees</i>	-	-	-	40.1	40.5	41.0	41.4	41.8	42.2	42.6	43.1	40.1	332.7
Total – non-tax revenue	-	-	-	40.1	40.5	41.0	41.4	41.8	42.2	42.6	43.1	40.1	332.7
Expenses													
<i>Administered</i>													
<i>Operating Expenses (Component 1)</i>	-	-	-	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-4.0
Total – administered	-	-	-	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-4.0
<i>Departmental</i>													
<i>Operating Expenses (Component 1, 2 & 3)</i>	-	-	-19.0	-194.0	-196.0	-198.0	-200.0	-202.0	-204.0	-206.0	-208.0	-213.0	-1,627.0
<i>Reversal of Program 2.5: Environmental Regulation</i>	-	-	-	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	439.2
Total – departmental	-	-	-19.0	-139.1	-141.1	-143.1	-145.1	-147.1	-149.1	-151.1	-153.1	-158.1	-1,187.8
Total – expenses	-	-	-19.0	-139.6	-141.6	-143.6	-145.6	-147.6	-149.6	-151.6	-153.6	-158.6	-1,191.8
Total (excluding PD)	-	-	-19.0	-99.5	-101.1	-102.6	-104.2	-105.8	-107.4	-109.0	-110.5	-118.5	-859.1

(a) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms.
 * Unquantifiable – not included in totals.
 - Indicates nil.

Table A2: Financial Costings for a Commonwealth Environment Protection Agency – Option 1 [Mixed Funding] – Underlying cash balance (\$m)^(a)

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33	
Receipts														
<i>Administered non-tax</i>														
Penalties and Fines	-	-	-	*	*	*	*	*	*	*	*	*	*	
<i>Departmental non-tax</i>														
Service charges and fees				30.1	40.4	40.9	41.3	41.7	42.1	42.5	42.9	30.1	321.9	
Total – non-tax receipts				30.1	40.4	40.9	41.3	41.7	42.1	42.5	42.9	30.1	321.9	
Payments														
<i>Administered</i>														
Operating Expenses (Component 1)	-	-	-	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-4.0	
Total – administered				-19.0	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-4.0	
<i>Departmental</i>														
Operating Expenses (Component 1, 2 & 3)	-	-	-19.0	-194.0	-196.0	-198.0	-200.0	-202.0	-204.0	-206.0	-208.0	-213.0	-1,627.0	
Reversal of Program 2.5: Environmental Regulation	-	-	-	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	439.2	
Total – departmental				-19.0	-139.1	-143.1	-145.1	-147.1	-149.1	-151.1	-153.1	-158.1	-1,187.8	
Total – payments				-19.0	-139.6	-143.6	-145.6	-147.6	-149.6	-151.6	-153.6	-158.6	-1,191.8	
Total (excluding PDI)				-19.0	-109.5	-101.2	-102.7	-104.3	-105.9	-107.5	-109.1	-110.7	-128.5	-869.9

(a) A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

* Unquantifiable – not included in totals.

- Indicates nil.

Table A3: Financial Costings for a Commonwealth Environment Protection Agency – Option 1 [Mixed funding] – Memorandum item: Public Debt Interest (PDI) impacts – Fiscal and underlying cash balances (\$m)^{(a)(b)}

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
<i>Fiscal balance</i>	-	-	-0.4	-2.8	-6.9	-11.2	-15.7	-20.6	-25.8	-31.5	-37.5	-3.2	-152.4
<i>Underlying cash balance</i>	-	-	-0.3	-2.4	-6.2	-10.4	-14.9	-19.8	-24.9	-30.5	-36.5	-2.7	-145.9

(a) As this table is presented as a memorandum item, these figures are not reflected in the totals in the table above. This is consistent with the approach taken in the budget where the budget impact of most measures is presented excluding the impact on PDI. If the reader would like a complete picture of the total aggregate, then these figures would need to be added to the figures above. For further information on government borrowing and financing please refer to the PBO's online budget glossary².

(b) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms. - indicates nil.

² [Online budget glossary – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/online-budget/glossary)

Table A4: Financial Costings for a Commonwealth Environment Protection Agency – Option 2 [Government Funding] – Fiscal and underlying cash balances (\$m)^(a)

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
Revenue													
Administered non-tax													
Penalties and Fines	-	-	-	*	*	*	*	*	*	*	*	*	*
Total – non-tax revenue	-	-	-	*	*	*	*	*	*	*	*	*	*
Expenses													
Administered													
Operating Expenses (Component 1)	-	-	-	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5
Total – administered	-	-	-	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-0.5	-4.0
Departmental													
Operating Expenses (Component 1, 2 & 3)	-	-	-19.0	-194.0	-196.0	-198.0	-200.0	-202.0	-204.0	-206.0	-208.0	-213.0	-1,627.0
Reversal of Program 2.5: Environmental Regulation	-	-	-	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	439.2
Total – departmental	-	-	-19.0	-139.1	-141.1	-143.1	-145.1	-147.1	-149.1	-151.1	-153.1	-158.1	-1,187.8
Total – expenses	-	-	-19.0	-139.6	-141.6	-143.6	-145.6	-147.6	-149.6	-151.6	-153.6	-158.6	-1,191.8
Total (excluding PD)	-	-	-19.0	-139.6	-141.6	-143.6	-145.6	-147.6	-149.6	-151.6	-153.6	-158.6	-1,191.8

(a) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

- * Unquantifiable – not included in totals.
- Indicates nil.

Table A5: Financial Costings for a Commonwealth Environment Protection Agency – Option 2 [Government funding] – Memorandum item: Public Debt Interest (PDI) impacts – Fiscal and underlying cash balances (\$m)^{(a)(b)}

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
Fiscal balance	-	-	-0.4	-3.4	-8.9	-14.7	-21.1	-27.9	-35.1	-42.9	-51.3	-3.8	-205.7
Underlying cash balance	-	-	-0.3	-2.9	-7.9	-13.7	-20.0	-26.7	-33.9	-41.6	-49.9	-3.2	-196.9

(a) As this table is presented as a memorandum item, these figures are not reflected in the totals in the table above. This is consistent with the approach taken in the budget where the budget impact of most measures is presented excluding the impact on PDI. If the reader would like a complete picture of the total aggregate, then these figures would need to be added to the figures above. For further information on government borrowing and financing please refer to the PBO's online budget glossary.³

(b) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

- Indicates nil.

³ [Online budget glossary – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/online-budget/glossary)

Attachment B – Sensitivity of costing to changes in scope

Table B1 : Sensitivity of Option 1 to changes in scope

	2022-23	2023-24	2024-25	2025-26	Total to 2025-26
Baseline (Option 1):					
Fiscal balance	-	-	-19.0	-99.5	-118.5
Underlying cash balance	-	-	-19.0	-109.5	-128.5
5% increased scope					
Fiscal balance	-	-	-20.1	-104.4	-124.5
Underlying cash balance	-	-	-20.1	-114.9	-135.0
5% decreased scope					
Fiscal balance	-	-	-18.2	-94.5	-112.7
Underlying cash balance	-	-	-18.2	-104.0	-122.2

Table B2 : Sensitivity of Option 2 to changes in scope

	2022-23	2023-24	2024-25	2025-26	Total to 2025-26
Baseline (Option 2):					
Fiscal balance	-	-	-19.0	-139.6	-158.6
Underlying cash balance	-	-	-19.0	-139.6	-158.6
5% increased scope					
Fiscal balance	-	-	-20.1	-146.5	-166.7
Underlying cash balance	-	-	-20.1	-146.5	-166.7
5% decreased scope					
Fiscal balance	-	-	-18.2	-132.6	-150.8
Underlying cash balance	-	-	-18.2	-132.6	-150.8