
SUSTAINABLE DEVELOPMENT AS A LEGAL STANDARD FOR INFRASTRUCTURE-ENVIRONMENT TRADE-OFFS: A COMPARATIVE STUDY OF INDIA AND AUSTRALIA

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ABSTRACT

This article examines whether sustainable development operates as an enforceable legal standard compelling State decisions on infrastructure development, or is primarily a rhetorical principle, through a comparative study of the policies prevalent in India and Australia. The countries have recently undergone major statutory amendments. This article compares India's Forest (Conservation) Amendment Act, 2023 (hereinafter referred to as the "**2023 Indian Amendment Act**") and Australia's Environment Protection Reform Act 2025 and National Environmental Protection Agency Act 2025 (hereinafter referred to as the "**2025 Australian Reforms**"). It judges both on the basis of enforceability, institutional embedding, procedural safeguards and practical effects drawn from official reviews and audits of environmental clearance in both countries. United Nation's sustainable development goals (hereinafter referred to as "**SDGs**") 9, 15 and 16 guide the analysis. The methodology is doctrinal and comparative and the official forest-diversion data placed before Parliament are used as context. The article finds that sustainable development operates as partially enforceable standard in both jurisdictions. It is effective when combined with a specific legal doctrine, procedural requirement or institutional mechanism. However, it gets weaker when invoked as a freestanding constraint on executive direction. In the first instance, India's 2023 amendment appears to narrow the procedural safeguards through executive-administered exemptions, while Australia's 2025 reforms focus more on strengthening of compliance and enforcement machinery and introduces binding standards. This article concludes that the legal, procedural and institutional anchoring of the standard, rather than its substantive

formulation, is the operative variable, with SDG-16 type safeguards an important but not exclusive component.

KEYWORDS: Sustainable Development, Forest Conservation, Environmental Clearance, SDG-9, SDG-15, SDG-16, Comparative Environmental Law.

1. INTRODUCTION

Every country that industrialises much decide how much ecological loss its development goal justify. The question has acquired much importance in India and Australia, with both countries seeing reforms in 2023 and 2025 respectively with respect to environmental clearances. India's 2023 Indian Amendment Act confined the said Act's application to defined categories forest land and created exemptions from the clearance requirements for border-area, security-infrastructure and Left-Wing Extremism affected areas¹. On the other hand, 2025 Australian Reforms followed a 2020 independent review finding that the Commonwealth could not effectively discharge its functions and environmental responsibility and sought to establish a new federal regulator with compliance and enforcement functions²³. Both reforms sit within the purview of sustainable development. This article asks whether the language, as prescribed in the domestic law, constraints a country's choices or merely legitimates choices made on other grounds.

Brundtland Report is one of the primary sources to discuss "sustainable development". It defines sustainable development as a development that meets present needs without compromising the ability of future generations to meet theirs⁴.

The choice of Australia as a comparator is based on three grounds. Both jurisdictions have multi-level systems i.e. central and state authorities. Both countries are common-law jurisdictions. Both countries have recently reformed their environmental clearance regime, although, the reforms differ in their approach. This analysis is based on clearance for infrastructure and does not address climate regulations or pollution control regimes generally. Part 2 to Part 6 defines the problem, question, objectives, methodology and hypothesis. Part 7 of this article reviews the literature and official sources and part 8 develops the analytical framework. Part 9 to 12 examine India and Australia in turn. Part 13 sets out the comparisons

¹ Forest (Conservation) Amendment Act 2023 (No. 15 of 2023), new s 1A(1)–(3), Gazette of India, Extraordinary.

² Graeme Samuel, *Independent Review of the Environment Protection and Biodiversity Conservation Act 1999: Final Report* (Australian Government, 2020).

³ Environment Protection Reform Act, 2025 (Cth); National Environmental Protection Agency Act, 2025 (Cth).

⁴ World Commission on Environment and Development, *Our Common Future* (Oxford University Press, 1987).

and answers each research question. Finally, Part 15 and 15 offers suggestions and a conclusion respectively.

2. STATEMENT OF PROBLEM

Both India and Australia have committed to the United Nations 2030 Agenda for Sustainable Development⁵. Considering that both countries have recently reformed their clearance regimes. No comparative study has evaluated whether these reforms give substantive legal effect to sustainable development or merely deploy its language. This article attempts to address that gap by assessing both reforms against a common, pre-defined standard rather than assessing each jurisdiction on isolation.

3. RESEARCH QUESTIONS

3.1. Research Question 1: To what extent does sustainable development operate as a legally enforceable standard for balancing infrastructure development and environmental protection in India and Australia?

3.2. Research Question 2: How do the institutional and legal frameworks governing infrastructure relate environmental decision-making in India and Australia affect the ability of any of the country to reconcile developmental objectives with environmental protection?

3.3. Research Question 3: To what extent 2023 Indian Amendment Act and 2025 Australian Reforms translate sustainable development into substantive, procedural and institutional safeguards for environmental protection?

4. RESEARCH OBJECTIVES

This article aims to examine the constitutional and statutory frameworks governing infrastructure related environmental clearance in India and Australia. It further aims to analyse how far the 2023 and 2025 reforms give practical effect to SDGs 9, 15 and 16. Finally, to analyse how courts in each jurisdiction have treated sustainable development in infrastructure-ecology-disputes and to identify reforms capable of strengthening its enforceability.

⁵ UNGA Res. 70/1, "Transforming our World: the 2030 Agenda for Sustainable Development" (25 September, 2015).

5. RESEARCH METHODOLOGY

This article uses doctrinal legal research and comparative analysis. Primary sources include constitutional provisions, statutes, rules and judicial decisions from both jurisdictions. Secondary sources include international instruments, parliamentary committee reports, audit reports, an independent statutory review and official data an independent statutory review and academic literature on sustainable development's status. Cases referred to in this article were used because they address sustainable development or ecologically sustainable development in disputes over infrastructure or resource use, and to represent different courts and levels of the federal system. Commentary by law firms, non-governmental organizations and news outlets is used only for commencement dates, reform details and reported court proceedings and reported official data. The analysis tries to cover developments up to 28 September, 2026.

6. RESEARCH HYPOTHESIS

Sustainable development functions both in India and Australia as a partially enforceable standard. Its practical effect, as mentioned above, depends on whether it is anchored to a specific legal doctrine, procedural requirement or institutional mechanism through which it can be given effect.

7. LITERATURE REVIEW

Scholars practicing international law have debated at various instances, whether sustainable development possesses independent force. Vaughan Lowe, a barrister and an academician, characterises that it as a modifying norm. He argued that sustainable development does not directly regulate conduct but exerts genuine interpretive pressure on the primary rules it sits between.⁶ He further states that sustainable development lacks the requirement of *opinio juris* and general state practice which is required to qualify a customary rule to international law. Virginie Barral's, an academician practicing in the United Kingdom, subsequent reassessment argues that sustainable development in terms of international law functions primarily as an objective that imposes relative obligations rather than an absolute one on states to regulate their conduct.⁷ This debate was foreshadowed judicially in *Gabčíkovo-Nagymaros Project (Hungary v Slovakia)*, where the International Court of Justice majority

⁶Vaughan Lowe, "Sustainable Development and Unsustainable Arguments" in Alan Boyle and David Freestone (eds.), *International Law and Sustainable Development: Past Achievements and Future Challenges* 19, 33 (Oxford University Press, 1999).

⁷Virginie Barral, "Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm" 23 *European Journal of International Law* 377 (2012).

gestured toward reconciling development and environmental protection without definitively pronouncing on sustainable development's legal status. In the same case, Vice-President Weeramantry's separate opinion went considerably further in treating it as a principle of international law in its own right.⁸⁹ Indian scholarship on the 2023 Indian Amendment Act has focused substantially on its exemption clauses and their constitutionality,¹⁰ while Australian commentary on the 2025 reforms has focused on the National Environmental Protection Agency's (hereinafter referred to as "*NEPA*") institutional design and staged commencement.¹¹ Neither literature engages directly with the other, therefore, this article's comparative method is intended to supply that missing connection.

8. CONCEPTUAL FRAMEWORK: SUSTAINABLE DEVELOPMENT AS A LEGAL STANDARD

The Rio Declaration on Environment and Development translated the Brundtland definition into operational principles. Principle 15 of the Rio Declaration relates to the precautionary approach, under which lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation, and it has proved to be the most concrete.¹² Principle 4 of the same declaration, further provides that environmental protection must constitute an integral part of the development process.¹³ The SDGs adopted in 2015 operationalise this framework further: SDG 9 commits States to resilient and sustainable infrastructure, SDG 15 to protecting terrestrial ecosystems and forests, and SDG 16 to accountable, transparent and independent institutions.¹⁴¹⁵¹⁶ As a General Assembly resolution rather than a treaty, the SDGs do not themselves bind India or Australia as a matter

⁸Gabčíkovo-Nagymaros Project (Hungary v. Slovakia), 1997 ICJ Rep. 7 (Judgment).

⁹Gabčíkovo-Nagymaros Project (Hungary v. Slovakia), 1997 ICJ Rep. 7, Separate Opinion of Vice-President Weeramantry.

¹⁰PRS Legislative Research, "The Forest (Conservation) Amendment Bill, 2023", <<https://prsindia.org/billtrack/the-forest-conservation-amendment-bill-2023>> (last visited 10 September, 2026).

¹¹Department of Climate Change, Energy, the Environment and Water (Australia), "Stronger Environmental Protection and Restoration", <<https://www.dcccew.gov.au/environment/epbc/epbc-act-reform/stronger-environmental-protection-restoration>> (last visited 10 September, 2026).

¹²Rio Declaration on Environment and Development, UN Doc. A/CONF.151/26 (Vol. I) (1992), Principle 15.

¹³Rio Declaration on Environment and Development (1992), Principle 4.

¹⁴UN Department of Economic and Social Affairs, "Goal 9", <<https://sdgs.un.org/goals/goal9>> (last visited 10 September, 2026).

¹⁵UN Department of Economic and Social Affairs, "Goal 15", <<https://sdgs.un.org/goals/goal15>> (last visited 10 September, 2026).

¹⁶UN Department of Economic and Social Affairs, "Goal 16", <<https://sdgs.un.org/goals/goal16>> (last visited 10 September, 2026).

of international law and their function in this article is analytical, supplying measurable targets against which domestic reform can be tested, not a source of enforceable obligation.

Drawing on the Lowe/Barral debate, this article focusses on four tests to distinguish an enforceable legal standard from a rhetorical one: (i) enforceability - can a court or institution require compliance such that a non-compliant decision may be set aside; (ii) institutional embedding - is compliance entrusted to a body structurally independent of the authority proposing the development; (iii) procedural safeguards - does the framework operationalise the standard through concrete, contestable mechanisms such as environmental impact assessment and public consultation; and (iv) practical effect - does application of the standard demonstrably alter substantive outcomes. These four tests structure the comparative analysis that follows.

9. INDIA: CONSTITUTIONAL AND STATUTORY FRAMEWORK

India's Constitution contains no standalone right to environment. Article 48A directs the State to protect the environment as a Directive Principle, and Article 51A(g) imposes a corresponding Fundamental Duty on citizens. However, neither the directive principle of state policy, nor the fundamental duty is directly enforceable.¹⁷ Enforceability instead flows through Protection of Life and Personal Liberty" as articulated in Article 21. The Supreme Court has read Article 21 expansively to encompass a right to a healthy environment, informed by Articles 48A and 51A(g).

In *Vellore Citizens' Welfare Forum v Union of India*, the Court held that the precautionary principle and the polluter pays principle are essential features of sustainable development, and that both had become part of the law of the land through this constitutional structure.¹⁸

The Forest (Conservation) Act, 1980 required Central Government approval before any forest land could be diverted for non-forest use.¹⁹ In *T.N. Godavarman Thirumulpad v Union of India*, the Supreme Court read 'forest' according to its dictionary meaning, extending the Act's protection to any area recorded as forest or answering the ordinary meaning of the word, irrespective of formal notification, and converted the proceeding into a continuing mandamus.²⁰ However, the 2023 Indian Amendment Act narrows this definition. A newly inserted Section 1A confines the said Act's application mainly to formally notified or

¹⁷The Constitution of India, arts. 21, 37, 48A, 51A(g).

¹⁸*Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

¹⁹Forest (Conservation) Act, 1980 (Act 69 of 1980), s. 2 (as originally enacted).

²⁰*T.N. Godavarman Thirumulpad v. Union of India*, W.P. (Civil) No. 202 of 1995, order dated 12 December, 1996 (SC).

recorded forest land. It also exempts certain categories from clearance altogether: land within 100 kilometres of an international border, Line of Control or Line of Actual Control, for strategic linear projects of national importance and national security; land up to ten hectares for security-related infrastructure; and land up to five hectares in Left Wing Extremism-affected areas for defence, paramilitary or public utility projects.²¹

10. INDIA: JUDICIAL TREATMENT

Indian case law does not show a linear strengthening or weakening of sustainable development's enforceability. It shows a standard whose force is contingent on the presence of a specific procedural anchor. In *Narmada Bachao Andolan v Union of India*, the Supreme Court permitted continued construction of the Sardar Sarovar Dam by a 2:1 majority, holding that the project's benefits outweighed environmental and displacement costs provided rehabilitation proceeded alongside construction, and expressly cautioned against the judiciary undertaking governmental functions.²² However, in *Hanuman Laxman Aroskar v Union of India*, by contrast, the Supreme Court suspended an environmental clearance granted for a greenfield airport in Goa on the ground of deficiencies in the clearance process itself such as inadequate disclosure regarding tree felling and ecologically sensitive zones, and directed the Expert Appraisal Committee to revisit its recommendations transparently.²³ The public trust doctrine, embedded into Indian law in *M.C. Mehta v Kamal Nath*, supplies a further, though narrower, substantive constraint on State disposition of natural resources. In the said case, the Supreme Court quashed a State Government's lease of forest land bordering a river to a private motel, holding that the State cannot give up its duty as trustee of natural resources meant for public use. The decision is a further example of a legal doctrine, rather than an institution, anchoring sustainable development.²⁴ Read together, these cases suggest that Indian courts enforce sustainable development most reliably where it is anchored to an identifiable procedural failure, and defer to executive judgment where no such anchor exists.

11. AUSTRALIA: CONSTITUTIONAL AND STATUTORY FRAMEWORK

The Australian Constitution gives the federal government no direct power over "environment." Instead, federal environmental laws usually rely on other powers, such as the power to implement international treaties. This is how the federal government has justified

²¹Supra note 1.

²²*Narmada Bachao Andolan v. Union of India*, AIR 2000 SC 3751.

²³*Hanuman Laxman Aroskar v. Union of India*, (2019) 15 SCC 401.

²⁴*M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

environmental regulation even in areas that would normally fall under State control. In *Commonwealth v Tasmania*, the High Court of Australia upheld federal regulations that blocked a dam project. By a 4:3 majority, the said Court held that these regulations were valid because they implemented Australia's obligations under the World Heritage Convention, even though the dam itself was being built by a State.²⁵ ²⁶ The Environment Protection and Biodiversity Conservation Act, 1999 (Cth) (hereinafter referred to as “*EPBC Act*”) accordingly operates through defined ‘matters of national environmental significance’ rather than a general development-versus-environment power. Section 3 of the said Act includes, among its objects, promoting ecologically sustainable development,²⁷ and section 3A sets out five operative Ecologically Sustainable Development (hereinafter referred to as “*ESD*”) principles, including a direct statutory transposition of the precautionary principle and the principle of intergenerational equity.²⁸

Professor Graeme Samuel conducted an independent statutory review in 2020. The review found that the existing Act left the Commonwealth unable to properly discharge its responsibility for protecting nationally significant environmental matters, citing in particular the absence of an independent compliance and enforcement function and of legally binding national environmental standards.²⁹ The resulting reform package, the 2025 Australian Reform was among seven Bills passed on 28 November 2025 which creates NEPA as a regulator structurally separate from the policy department and directly responsive to the Samuel Review’s institutional diagnosis.³⁰ As of the relevant commencement dates, the NEPA became operationally independent from 1 July 2026, with the first National Environmental Standards made in August 2026 and the remaining provisions to commence on or before 1 December 2026.³¹ This staged timeline means the reform’s practical effect cannot yet be empirically assessed, a limitation this article states explicitly rather than resolving by assumption.

12. AUSTRALIA: JUDICIAL TREATMENT

Australian litigation on ecologically sustainable development has occurred substantially at State level, applying State planning legislation rather than the Commonwealth Act. In *Gray v*

²⁵Commonwealth of Australia Constitution Act, 1900 (Cth), s. 51(xxix).

²⁶Commonwealth v. Tasmania (Tasmanian Dam Case), (1983) 158 CLR 1.

²⁷Environment Protection and Biodiversity Conservation Act, 1999 (Cth), s. 3.

²⁸Environment Protection and Biodiversity Conservation Act, 1999 (Cth), s. 3A.

²⁹Supra note 2.

³⁰Supra note 3.

³¹Supra note 11.

Minister for Planning, the New South Wales Land and Environment Court held that a failure to properly consider ESD principles, including intergenerational equity and precaution, in assessing the adequacy of an environmental assessment for a coal mine rendered that assessment legally deficient, treating ESD as a mandatory relevant consideration capable of independently grounding invalidity.³² In *Sharma v Minister for the Environment*, the Federal Court initially recognised a common-law duty of care owed by the Minister to Australian children in exercising EPBC Act approval powers in relation to climate-change harm; the Full Federal Court unanimously overturned this finding on appeal, each judge reasoning separately, with the Chief Justice holding that recognising such a duty would require the courts to engage with questions of policy unsuitable for judicial resolution.³³³⁴ Read together with Gray, this suggests Australian courts, like their Indian counterparts, enforce sustainable-development-related principles reliably only where anchored to an existing legal mechanism, the mandatory-relevant-consideration doctrine in Gray and decline to recognise it as a freestanding basis for new obligations.

13. COMPARATIVE ANALYSIS

India entrenches sustainable development indirectly through Article 21 as judicially expanded. Australia expressly includes the idea of ecologically sustainable development (ESD) in its environmental laws. However, the Australian Constitution gives the federal government relatively limited power over environmental matters, so federal environmental regulation often depends on Australia's international treaty obligations. On institutional embedding, the two 2023–2025 reforms diverge. The 2023 Indian Amendment Act provides for exemptions which are defined and administered by the same Union Government that benefits from them. On the other hand, Australia's NEPA is structurally separate from the department responsible for environmental policy for enforcement purposes and directly responsive to the institutional gap identified by the Samuel Review. However, the minister retains primary approval authority and any delegation to NEPA remains subject to ministerial direction.³⁵ On procedural safeguards, the reforms move in opposite directions: India's exemptions remove the clearance requirement for defined categories, while Australia's

³²Gray v. Minister for Planning, (2006) 152 LGERA 258.

³³Sharma v. Minister for the Environment (No. 2), [2021] FCA 560.

³⁴Minister for the Environment v. Sharma, [2022] FCAFC 35.

³⁵Environmental Defenders Office, "EPBC Act Reforms Make it to Parliament – EDO's First Impressions" (31 October, 2025), < <https://www.edo.org.au/2025/10/31/epbc-act-reforms-make-it-to-parliament-edos-first-impressions/>> (last visited 10 September, 2026).

National Environmental Standards are intended to strengthen and standardise assessment criteria rather than exempt categories from it. Further, courts in both countries do not treat sustainable development as an absolute rule that automatically allows them to overturn a government decision. However, courts are willing to enforce environmental principles when those principles are connected to a specific legal or procedural requirement. On practical effectiveness, the comparison remains asymmetric for reasons of timing rather than substance: 2023 Indian Amendment Act has operated long enough to generate litigation, while Australia's NEPA has been operational only since 1 July 2026.

14. ANALYSIS AND FINDINGS

This Part answers each research question separately and in depth, since each raises a distinct analytical question that a single composite finding would obscure.

14.1. RQ1 - Does Sustainable Development Operate as an Enforceable Legal Standard?

The evidence suggests that sustainable development becomes enforceable mainly when it is supported by specific institutions and procedures, rather than simply because it is strongly stated as a principle. Both jurisdictions possess textually similar formulations of the doctrine such as Brundtland's inter-generational formula, provided almost verbatim in Rio Principle 15's precautionary language, and again in section 3A(b) of the EPBC Act, yet enforceability has varied sharply depending on whether a specific mechanism existed through which a court could give the principle legal effect.³⁶ Where such legal or procedural mechanisms existed, courts gave sustainable development real legal effect that could influence the outcome, as seen in *Godavarman*, *Aroskar*, and *Gray*. Where no such mechanism was invoked, and courts were instead asked to treat sustainable development as a freestanding basis for overriding a considered executive or ministerial decision. The Indian Supreme Court in *Narmada Bachao Andolan* case, and the Full Federal Court of Australia in the *Sharma* appeal, each independently reasoned that such a role would draw the judiciary into questions of policy which is better left with the political branches.³⁷³⁸

However, this finding has an important limitation. In *Gray v Minister for Planning*, one of the strongest examples of enforceable sustainable development, enforcement did not depend on an independent environmental institution. Instead, it came from ordinary State administrative

³⁶Supra note 28.

³⁷Supra note 22.

³⁸Supra note 34.

law and judicial review.³⁹ Equally, the *Vellore Citizens* case predates the existence of any independent Indian environmental regulator and nonetheless produced binding remedial directions, suggesting judicial doctrine can substitute for institutional independence rather than depending on it.⁴⁰ The most defensible conclusion is therefore narrower than either ‘sustainable development is binding law’ or ‘sustainable development is merely rhetorical’: the doctrine functions as what international legal scholarship terms an interstitial or modifying norm, genuinely capable of altering outcomes when it attaches to an existing legal mechanism, but without independent force where it does not.⁴¹

14.2. RQ2 - How Do Institutional and Legal Frameworks Affect the State’s Capacity to Reconcile Development and Environmental Protection?

India’s 2023 Amendment Act concentrates both the power to (a) define an exemption category and (b) to approve projects under it in the same Union Government, with no institution structurally separate from that Government empowered to review the exemption’s use.⁴² This is a structural conflict of interest in the strict sense: the same executive authority whose own strategic and security infrastructure projects benefit from the border-area and security-infrastructure exemptions is also the authority that defines which projects qualify. Australia’s 2025 Reforms were designed, on the Samuel Review’s own diagnosis, to correct precisely this kind of structural weakness by creating the NEPA as a body institutionally separate from the policy department.⁴³ The Minister for the Environment retains primary decision-making authority over EPBC Act referrals and approvals and the NEPA’s core statutory role is compliance, enforcement and audit, not primary approval decisions, and although approval functions may be delegated to NEPA’s Chief Executive Officer, any decision made under such delegation remains subject to ministerial direction. This feature as identified by independent commentators has undermined the independence the reform was designed to achieve.⁴⁴⁴⁵ This is a materially important qualification: Australia’s reform strengthens institutional independence over enforcement and compliance, but leaves the primary development-versus-environment decision who the approval itself with the political

³⁹Supra note 32.

⁴⁰Supra note 18.

⁴¹Supra note 6.

⁴²Supra note 1.

⁴³Supra note 2.

⁴⁴Supra note 3.

⁴⁵Norton Rose Fulbright, ‘Understanding the EPBC Act reforms: A practical guide’ (2025) <<https://www.nortonrosefulbright.com/en-au/knowledge/publications/40d6ce1c/understanding-the-epbc-act-reforms-a-practical-guide>> accessed 10 September 2026.

executive. The comparative institutional gap between India and Australia is therefore real but narrower than a simple contrast between ‘no independent institution’ and ‘independent institution’ would suggest. It is more accurately a contrast between no independent institution at any stage (India) and an independent institution confined to the enforcement stage, with the primary approval decision remaining, as in India, an executive one (Australia).

14.3. RQ3 - Do the Reforms Translate Sustainable Development into Substantive, Procedural and Institutional Safeguards?

Disaggregating this question by safeguard type produces a sharper answer than a single composite judgment would. Substantively, India’s 2023 Amendment Act narrows rather than strengthens protection. With the addition of the new Section 1A definition of ‘forest’ displaces the wider Godavarman dictionary-meaning test for land falling outside the Amendment’s notified categories, reducing the substantive scope of statutory protection compared to the pre-2023 position.⁴⁶⁴⁷ Australia’s reform, by contrast, leaves the substantive content of ecologically sustainable development in section 3A of the EPBC Act textually unchanged and its intervention is procedural and institutional rather than substantive.⁴⁸ Procedurally, the two reforms move in opposite directions: India’s exemptions remove the clearance requirement, and with it any assessment obligation, for defined project categories, while Australia’s new Part 19B introduces legally binding National Environmental Standards intended to make assessment criteria more consistent and enforceable across all matters of national environmental significance, not fewer.⁴⁹ Institutionally, India creates no new body of any kind, while Australia creates NEPA, though, as provided in the response to RQ2 above, confined principally to the enforcement rather than the approval stage. The net finding is that India’s 2023 Amendment weakens sustainable development’s legal safeguards across all three dimensions for the categories it exempts, while Australia’s 2025 reform is neutral on substance, an improvement on procedure, and a partial, stage-limited improvement on institutions, an outcome considerably more qualified than either jurisdiction’s own official framing of its reform would suggest.

15. SUGGESTIONS

Indian courts have tended to enforce environmental rules only when a clear procedure exists for them to check. But the current exemptions skip that procedure entirely for certain

⁴⁶Supra note 20.

⁴⁷Supra note 1.

⁴⁸Supra note 28.

⁴⁹Supra note 11.

projects. Instead of exempting these projects from scrutiny altogether, some form of review should still apply. That review should be carried out by a body that is separate from the very ministries whose own infrastructure projects benefit from the exemptions. For Australia, given that the NEPA's independence and effectiveness remain untested, a dedicated, published review of its first eighteen to twenty-four months of operation which is distinct from the EPBC Act's periodic statutory review, should specifically assess whether institutional separation from the Department has altered enforcement outcomes in practice. For both jurisdictions, statutorily mandated and judicially reviewable reason-giving requirements tied to defined ecological, economic and institutional-accountability criteria would strengthen sustainable development's enforceability by supplying the procedural anchor this article's case-law analysis identifies as decisive.

16. CONCLUSION

This article set out to test whether sustainable development constrains State decision-making on infrastructure-versus-environment trade-offs, or merely legitimates decisions made on other grounds. Its answer, on the evidence of India's 2023 Amendment Act and Australia's 2025 Reform, is neither. Courts in both jurisdictions have declined to treat sustainable development as an unconditional constraint, yet have given it genuine legal effect where anchored to a specific institutional or procedural mechanism. The doctrine's force is a function of institutional architecture rather than of its own substantive content, which has remained comparatively stable across both jurisdictions since the Brundtland Report first articulated it. This finding suggests that SDG 16's institutional-accountability agenda is not merely one goal alongside SDG 9 and SDG 15, but is functionally the mechanism through which the tension between infrastructure development and ecological protection is or is not legally reconciled in practice.

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