



Nature Conservation Council

The voice for nature in NSW

Water Trigger Review
GPO Box 787
Canberra ACT 2601

By email: wtreview@environment.gov.au

29 January 2016

Dear Sir/Madam,

The Nature Conservation Council of NSW (**NCC**) is the peak environment organisation for New South Wales, representing 150 member societies across the state. Together we are committed to protecting and conserving the wildlife, landscapes and natural resources of NSW.

We welcome the opportunity to provide input into the independent review of the 'water trigger' legislation. Many of our members are located in regional NSW and are directly impacted by coal and gas mining activities. Our members have significant concerns regarding the impacts of coal and gas mining on biodiversity, water resources, public health and communities, and strongly support the water trigger in the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

NCC's original support for the water trigger is set out in our earlier submission to the Senate inquiry into the EPBC Amendment Bill 2013¹.

Need for the water trigger

High impacting coal and gas mining projects pose unacceptable threats to public health, drinking water supplies, land, wildlife and existing rural industries. The rapid expansion of coal and gas mining industries across the country has already polluted rivers, depleted groundwater, and contaminated wetlands. Federal oversight on the impacts of coal and gas projects on our precious water resources is critical to ensuring that our water resources are protected now, and for future generations.

We do not agree with claims that Commonwealth environment laws, including the water trigger, duplicate state laws. The EPBC Act provides important oversight on matters of national environmental significance, which cannot always be adequately assessed and managed by the States².

¹ NCC's submission to the Senate inquiry into the Environment Protection and Biodiversity Conservation Amendment Bill 2013 is available to download at www.aph.gov.au/DocumentStore.ashx?id=e371c1ef-b309-46e6-946d-b09cf291428f

² See further NCC's submission to the *Inquiry into streamlining environmental regulation, 'green tape, and one-stop shops* (2014), www.nature.org.au/media/1895/140430-sb-inquiry-into-streamlining-environmental-regulation-green-tape-and-one-stop-shops.pdf

We also note that water resources are not adequately protected by other ‘matters of national environmental significance’ (MNES) under the EPBC Act. Without the water trigger, the Commonwealth Minister’s ability to manage impacts on water is limited.

We strongly believe the impacts of coal and gas mining on water resources is a matter of national environmental significance and the water trigger is necessary to empower the Federal government to protect our important water resources.

Effectiveness of the water trigger

The water trigger has provided important Federal oversight on projects that impact on water resources across Australia. The Issues Paper recognises that since the water trigger has been introduced, the Commonwealth Minister for the Environment has been able to require conditions for approval to ensure that any significant impacts on a water resource are acceptable.

That said, the water trigger does not provide absolute protection for water resources. For example, it does not require the Minister to act consistently with the advice of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) and it does not require the Minister to refuse proposals that are likely to have a significant impact on water quality.

This has led to inconsistent application of the Minister’s discretion. For example, the original mine layout of the Springvale Mine Extension Project (EPBC 2013/6881) was approved by the Minister despite advice from the IESC that to avoid impacts on the Temperate Highlight Peat Swamps on Sandstone ecological communities the mine layout should be altered. In other circumstances, such as the Russell Vale Colliery Underground Expansion Project (EPBC 2014/7268), IESC advice resulted in changes to the mine layout due to impacts on water resources.

Further, the water trigger does not cover all unconventional gas mining, including shale and tight gas. These forms of gas development pose the same risks to water resources and communities as coal seam gas, in particular in Western Australia, South Australia and the Northern Territory, and are currently not captured within the scope of the water trigger.

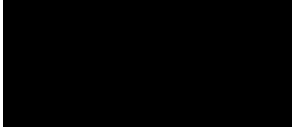
So while the water trigger has been successful in bringing projects within the scope of the EPBC Act, there are opportunities to strengthen the effectiveness of the regulation and provide increased protection for water resources. For example:

- The water trigger should be expanded to cover all unconventional gas mining, including shale and tight gas;
- The Minister should be required to act consistently with the advice of the IESC; and
- The Minister must be required to refuse proposals that are likely to have a significant impact on water quality.

Future reviews

We note that section 522A of EPBC Act contains a requirement to review the operation of the EPBC Act every 10 years. We suggest that this mechanism is appropriate for future reviews of the water trigger, and the Act in its entirety.

Yours sincerely,



Kate Smolski
Chief Executive Officer