

Submission to ‘Independent’ Review of the ‘Water Trigger’ Legislation: EPBC Amendment Act 2013

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(Dirty coal, dirty CSG-time to move to renewables isn't it?!)



Photo without words

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(Murray River during millennium drought at Nangiloc)

This is a first five yearly review of the amendment to the EPBC Act known as the ‘water trigger’ which is triggered when assessing and approving ‘coal seam gas and large coal mining



Dead Queen
River in Tasmania
due to mining

developments that are likely to have a significant impact on water resources. The EPBC Act is, as stated ‘the Australian Government’s central environmental legislation’. It was introduced

because our community had grave concerns about CSG development and large coal mining projects and the lack of a rigorous investigation into the impacts of these developments. Previously only the 'likely impacts of CSG and large coal mining on matters of national environmental significance' in the EPBC Act were allowed to be considered by the Environment Minister.

This review is to investigate whether this water trigger legislation is 'appropriate, effective and efficient' in protecting our water resources from CSG and Large coal mines.



(The DEAD Queen River in Tasmania, a result of mining)

What we are to look at is the 'limited to the terms of reference', requiring us to 'focus on the appropriateness, effectiveness and efficiency of the EPBC Amendment Act 2013'.

The legislation seeks to 'strengthen the regulation of CSG and large coal mining developments' to ensure that they 'are informed by substantially improved science and independent expert advice' and to protect water resources as a 'matter of national

significance.’ The Minister sets conditions ‘as part of a project approval to ensure any impacts on a water resource are avoided, mitigated or offset’. I understand that associated infrastructure which is ‘not part of the extraction process’ are excluded referred only if they impact on matters of national environmental significance. If the entire action is referred under the EPBC Act, the water trigger legislation requires that the action is to be ‘considered as a whole’. If any changes or extensions to an ‘approved project’ have a ‘significant impact on a water resource’, then this legislation will apply.

So Far

1. As at 31 October 2015, 23 CSG and large coal mine developments have been approved and a further 42 are undergoing assessment, further it was determined that ‘48 existing projects were likely to have a significant impact on water resources.’
2. The Independent Expert Scientific Committee (IESC) on CSG and Large Coal Mining Developments ‘provides scientific advice to the Environment Minister and relevant state Ministers on water-related impacts and also on bioregional assessments, research priorities and research projects commissioned by the Minister.’ So far the IESC has provided 77 pieces of advice.
3. ‘Section 25 of the EPBC Amendment Act 2013 requires an independent review of the operation of this legislation’. Both an independent statutory review and a post-implementation review will be done.
4. To determine is whether ‘the water trigger remains appropriate, and to what extent the regulation is efficient and effective in protecting water resources from the potential impacts of CGS and large coal mining developments.’
5. The Government’s intention is to ensure that this is an efficient and well-targeted regulation that doesn't unduly burden businesses and communities and improves environmental outcomes by looking into the costs and benefits and by examining the ‘appropriateness, effectiveness and efficiency of this legislation.
6. Is this legislation necessary and well targeted?
7. The review will provide conclusions and recommendations taking into account ‘relevant policies and reports’ and our submissions I assume.



(Pipeline for Iluka mines at Ouyen, Victoria)

The evidence is there, right before us, over and over again that we **MUST** have a ‘water trigger’ for coal seam gas and for coal mines and in fact for ‘any’ mining that uses our scarce water resources and is likely or will have an impact. How we use water in this country of such scarce water resources is a matter of National Significance environmentally and therefore must be listed as a ‘trigger’ in our National environmental law: the EPBC Act.

Water resources are yet again, not long after the millennium drought just a few years ago, in danger from uses which pollute it and have impacts that can and must be avoided. The Murray-Darling Basin, the Lake Eyre Basin and the Great Artesian Basin underpin this entire continent, and therefore, we as a nation, have a fundamental obligation and an inalienable right to protect it from proposals, activities that will have an impact on its health and on its intrinsic value to the environment, and as follows on us humans. The MDB Plan is an example where it was clear that the government and people were terrified that the entire system was over allocated which would impact on us all. The fear is justified, though there are still people out there who are ignorant, greedy, self serving, and plainly uninformed and would deny the environment its fair share of the water in the MDB as well as the other basins in Australia. This includes short sighted, ignorant politicians, farmers, corporations, both local and foreign whose sole interest is extracting every single drop to make money for themselves and their shareholders!

Water underpins life. It underpins biodiversity, it underpins survival of everything. There are wars about access to water, and this is simply increasing. The sale of water, and making it a commodity with the pretext that it goes to those who most benefit is a ridiculous furphy, it goes to those who can pay \$\$\$\$\$. And guess who this is: investors, corporations, mining companies, politicians etc etc.

Groundwater, streams, rivulets, wetlands, lakes, rivers, and entire water systems need National oversight because they must not be over-extracted, poisoned, diverted, monopolised, politicised, etc because they underpin a healthy environment, which in turns underpins healthy communities. Look at Melbourne and Sydney water catchment, where do they get there water from? Not just one source but many: groundwater, dam storages fed by diverted rivers, by rain events etc. Look at the fact that farmers grow food, they need clean water, they need water period. You can't eat coal or drink CSG can you????!!!!

The Great Barrier Reef World Heritage Area is often threatened by flows from farming land which has had chemicals used on it, what about the releases flowing into it from coal mines during flood events? What about dams that overflow in flood times?

It is clear that the water trigger Amendment to the EPBC Act is a central and vital piece of legislation which filled what we all recognised, a gigantic gap in State and Territory assessments of CSG \$\$\$\$\$\$ of which there are thousands and thousands of wells, this near towns and cities, near all types of water sources upon which we depend! Let's not forget the coal mines \$\$\$\$\$\$\$\$, the sizes of which have increased to gargantuan proportions due to the greed of some very wealthy people in this country. Their sole intent is to dig up the coal and siphon the gas while it is still profitable to do so and before we stop them because it is polluting not only our waters but the very air we breath, along with all the other creatures of this earth!

State government approval and assessment regimes have narrow terms of reference, purely and simply because they are desperate for the royalties that coal and CSG and mining brings to their coffers. It is evident that the political outlook of politicians is focused on the next election, so they don't want to inhibit the growth of mining in the short term, because they themselves think in short time frames. Miners dig and drill as quick as they can and extract as quick as they can, and move on fast, so they aren't held to account for any damage they do. You just have to look at what is happening in the Hunter Valley, NSW and in areas of Queensland and WA where they create such huge holes in the ground that they can be seen from space. They drill so many CSG holes, flare these, use water as if it was their right, no matter what the consequences are and that the impacts of these are evident for years and years after they have exhausted the non renewable resources.

We are always hearing about Australian companies, and others, who pollute water ways and then cry poor, or hide the fact that they were aware of impacts but didn't want to stop and lose their \$\$\$\$\$\$. This has happened in PNG, in Brazil, in Australia, all over the world. Corporations who simply abuse and use and then leave. This is rape; rape of the our environment, rape of our water resources and is simply not acceptable.

To now try to cut back on this water trigger legislation, an Amendment which would and must be strengthened to catch uranium mining, and other forms of mining; on the pretext of this regulation not being effective, or it holds up mining companies, or is “red tape” or is it “green tape” is simply ridiculous and is really really all about profits at the cost of our clean environment, our clean water, which is of national significance. This at a time when we ALL know, the science is in, whether ignorant, greedy vested interests deny it or not, climate change makes it even more critical that our waters are protected from corporations, politicians, and greedy people who are intent on making profits at the cost of our human right to a healthy environment and this includes our vital resource which neither creatures, plants or we can live without.

When aboriginal people say that ‘many ancient springs that have flowed for tens of thousands of years have recently gone dry’, we have a grave problem that is not being dealt with.

What about multiple mines, what about their impacts on an area, these mega mines; don’t they have a predictable cumulative impact, as they ‘can accumulate linearly or exponentially and reach “tipping points” after which major change in ecosystems may follow?’

I suggest you read the two following books for a start: ‘Mine-Field: the dark side of Australia’s resources rush’ by Paul Cleary and ‘What the Frack?’ :everything you need to know about coal seam gas’ by Paddy Manning. both of these books highlight the fact that we must have laws that force coal miners and coal seam gas extractors to look at the fact that neither coal nor this sudden rush to the next newest money spinner, almighty CSG, are renewable and they both pollute our water, our atmosphere. Accounting for the fact that both these extractive industries add to climate change and therefore the disasters we are experiencing in increasing events around the entire globe, this failure to adhere to globally accepted principles/laws/agreements must be added to their account.

‘The sheer scale, complexity and speed of resource development in Australia calls for more vigorous and effective government oversight (NOT LESS) and much greater public disclosure by resource companies.’ The risk is serious with huge ramification that last for a long time. An example of just one disaster is the August 2009 Montara oil spill in the Timor Sea, a 6,000 square kilometre oil slick. The NT had relied on self reporting by the companies and industry, ‘without independent verification of claims about adherence to regulations -very much like the model that exists for state-based regulation of mining and CGC.’ (sounds like the live export trade again with inhumane treatment of animals) (also sounds like putting the ‘fox in charge of the hen house!!!)

There must be the ‘political will’ to ensure that this water trigger legislation is tightened and not loosened, to protect what is in the national interest and which underpins all life. Water is of national significance and it belongs with the EPBC Act, at a national level, not with the

Department of agriculture, mining, resources etc! Same as environmental water belongs with the Department of the Environment NOT with the Agriculture Minister as much as he would love control!!!! Fox in charge of the henhouse again!

Governments at all levels have a duty to protect matters of National and International significance and this means that a water trigger in our National Environmental protection law does what it must do and that is that any project which has an avoidable impact on matters that are of national significance must face scrutiny and must adhere to the rule of law and this rule of law has to comply with what we the people regard as of national significance and that is: our environment, including our air and water.

Please get a copy of an article I found called: 'The disappearance of ecologically sustainable development within Australia's mining law framework' found in the Environment and Planning Law Journal by Stephanie Venuti at: 31 EPLJ 64 (2014). In this article she states that "In the face of climate change and internationally binding targets to reduce greenhouse gas emissions, the regulation of energy use and production is fast becoming a highly contentious area of environmental law and policy." She goes on to say that natural gas, including CSG which burn more efficiently than coal or oil, must be our next energy source but notes the huge groundswell against this, and this is because of the lack of a strong, binding regulatory framework to address the obvious issues such as groundwater.

Ms Venuti says that competing interests in land, and the reactive and piecemeal nature of regulatory reforms are concerning. e.g. the constant reinvention of rules by NSW government!

The application of the water trigger by states means that it has not been addressed at a national level, and this is where it must sit purely and simply for the reason that rivers, groundwater does not stop at artificial boundaries that states draw up. What about the social, cultural, and economic uses of water? Where is this in the figure? Or is it simply that mining can do what it likes because of the royalties it provides and the power the mineral companies have over governments? Look at the recent huge ad campaign by the resource sector when they felt threatened by our attempt to curb emissions and set emissions targets! A Prime Minister was toppled because of their concerted attacks on him, and on environmentalist and on anyone who cared about clean water, clean food, about wetlands, about matters of national and international significance! This inquiry or review of this Amendment must not be set up as a secret attempt to weaken the water trigger legislation when in fact it must be strengthened!

The water trigger hasn't meant protection because states still haven't addressed this in their own regulations and have no thought to have regard for cumulative impacts, across border impacts. There must be clear boundaries and thresholds and exclusion zones and mandatory setbacks, monitoring, water quality targets and access to cultural water.

Since cumulative impacts aren't addressed in any meaningful manner by states and territory legislation, the IESC must be given the duty of reviewing their legislation and statutory requirements for water volumes, for water quality, for assessment, for prevention of mining impacts and whether their regulations/legislation meet the purpose which is intended and that is to avoid not just mitigate in the first instance.

1. I ask that all unconventional gas mining, shale and tight gas, as well as CSG, be brought under the water trigger legislation, as well as any other fossil fuel developments, such as shale oil and underground gasification.
2. I ask that the water trigger be applied to any water development by coal mining and unconventional gas. for example if a broiled, dam or water pipeline are proposed to feed a coal mine with water, or a water treatment facility for a CSG operation. This is because they are 'water resources impacts of those activities and the national water trigger must be triggered.

IESC must have the power to 'create binding guidelines, and require standards-such as enforcing ANZECC water quality guidelines for creek discharges.' For goodness sake we don't live in Papua NG where an Australian mining company released poisonous chemicals and killed a river that people and the environment depended upon! We live in a developed country which has a Federal Government which has to abide by National and International obligations that it has signed up to. We are a global citizen and as such we have a moral obligation to ensure that we do not pollute our waters for the sake of a penny or two or even a billion. Miners have an obligation, they have a responsibility to the people in this Country, an obligation to not harm our water supplies, to not harm anything or anyone dependent on them. Governments at all levels must institute laws which do what they are intended to do and that is trigger investigations, by a body outside of a mining company which holds them to account, which says, no you do not have a right to proceed with a project which is likely to have an avoidable impact and if the impact is not avoidable-too bad you can't proceed.



There are cleaner ways and coal is a dirty word around the world. The whole conversation is changing. We want clean energy that does not damage our air and water and environment!



Tighten the water trigger legislation:

1. no EPBC exemption without proof and honesty and no acceptance of misleading info
2. Proper baseline testing by improving and expanding provision within EPBC Act
3. If there is a change in water quality or level then a halt and termination order
4. rigorous reporting requirements reviewed independently
5. if there is an alteration to conditions, this must be followed up by a review and reporting
6. royalties must not come into the equation
7. the mining companies claims it creates jobs and money when in fact once set up is automated and they shed jobs and shed when the share prices and market prices drop!
8. cleanup immediately any spills or halt when drops in water levels, when water bubbles due to escaping gas etc
9. do not allow companies to regulate themselves-a disaster as we have proven over and over
10. Give the IESC the review of state and territory legislation and statutory arrangements for water volumes, quality, assessments, prevention of mining impacts, and whether they do the job
11. the IESC must have power to act and power to create binding guidelines, and require standards and enforcement
12. you simply cannot leave the fox in charge of the henhouse-or the mining company in charge of its own assessments etc

Thank you for the opportunity to make a submission.

I believe firmly that no mining company has the right to mine anything; above or below which has impacts on our water. Our water is a National asset and we cannot live without clean water so therefore it is a matter of National significance and must be controlled at a Federal level under the EPBC Act. Nothing else is acceptable. Mining companies are there to make money, they are not there to look after the national interest. They find that a burden, anything that costs them their profit margin (and this is proven by their concerted attack on the Rudd government's carbon tax etc in all forms of media and their political supporters) they will try to get rid of. Do not allow them to dodge their responsibility and obligation to the people of Australia and the environment of Australia who/which are impacted by thousands and thousands of CGS wells, by mega coal mines on a continent where water is scarce, where water has multiple uses and must be pristine. Chemicals used in the extractive industries is toxic, water flows so these chemicals move; underground, sideways, down, up, out, into and ... The water trigger must be tightened so that there is absolutely no advantage to mining companies ahead of the environment, ahead of my communities, ahead of food security ahead of the national interest in a clean and healthy environment.

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