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Water Trigger Review  
Department of the Environment  
GPO Box 787  
Canberra ACT 2601

Sent by email: [wtreview@environment.gov.au](mailto:wtreview@environment.gov.au)

29 January 2016

Dear Sir/Madam,

**Submission to the *Independent Review of the 'Water Trigger' Legislation***

1. Thank you for the opportunity to make a submission to the Review.
2. WWF-Australia is part of the WWF International Network, the world's largest independent conservation organisation.
3. WWF's global mission is to '*stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature*'.
4. WWF is active in more than 100 countries and has approximately five million supporters.
5. WWF-Australia has approximately 88,000 financial supporters, 200,000 non-financial supporters and about 180,000 supporters across our social media channels.
6. In summary, WWF-Australia firmly supports the inclusion of the 'water trigger' in national environmental law.
7. However, we submit that several reforms are necessary to ensure the implementation of the water trigger addresses the existing concerns raised by the community and experts alike.
8. The water trigger should be broadened to apply to all large mine projects (as defined in the EPBC Act) and to all large unconventional gas projects, including water intensive shale gas.
9. WWF-Australia further submits that the EPBC Act should be amended so that the Minister 'must not act inconsistently' with the IESC's advice when assessing the project and that the conditions of consent be required to reflect the IESC's advice.
10. As set out in the Review Terms of Reference, this submission addresses the following points:

1. *The appropriateness of the regulation including whether it is necessary and well targeted*
2. *The effectiveness of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects, including the role and scope of work ascribed to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC)*
3. *Opportunities to improve the effectiveness of the regulation*

4. *Efficiency of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects*

6. *Recommended appropriate future review points of the regulation.*

***The appropriateness of the regulation including whether it was necessary and well targeted***

11. The water trigger was introduced as a result of continued widespread community concern over the impacts of coal seam gas (CSG) and mining development on water resources.

12. This concern emerged largely in response to the inadequate regulation of these impacts by State and Territory legislation.

13. These concerns were noted by the Senate Standing Committee on Environment and Communications in its inquiry into the Water Trigger Bill. The report noted that:

*The committee received much evidence which demonstrated that there is a high level of concern in the community, especially in rural areas, about the possible adverse effects of CSG and coal mining on the availability and quality of water resources. There is also a strong feeling that the assessment and approval processes for these developments are inadequate.<sup>1</sup>*

14. Prior to the introduction of the water trigger, the Federal Environment Minister could only regulate the impacts of CSG developments and large coal mining developments on water resources through one of the existing Matters of National Environmental Significance (MNES).

15. In practice, this meant that many CSG developments and large coal mining developments that were likely to have a significant impact on water resources could not be declared 'controlled actions' by the Minister under the EPBC Act.

16. The water trigger now provides the power for the Minister to assess and conditionally approve (or reject) a CSG or large coal mining development likely to have a significant impact on water resources.

17. WWF-Australia submits that the creation of the water trigger is an important and necessary first step in restoring community confidence in national environmental laws and clarifying the Minister's power under the EPBC Act.

***The effectiveness of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects, including the role and scope of work ascribed to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC)***

18. As is mentioned above, WWF-Australia believes the water trigger is an important step towards more effective regulation of water resources from the impacts of CSG developments and large coal mining projects.

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<sup>1</sup> Senate Standing Committee on Environment and Communications, Inquiry into the *Environment Protection and Biodiversity Conservation Amendment Bill 2013*.

19. However, the water trigger is limited in its scope as it only applies where a CSG development and large coal mining project is likely to have or will have a 'significant impact' on a water resource.

20. WWF-Australia submits that the scope of the water trigger should be expanded to apply to all large mining developments that excavate beneath the water table and to all unconventional gas developments.

21. Further, in relation to the role of the IESC, the Minister is currently only required to take the advice of the IESC 'into account'<sup>2</sup>.

22. In practice, this is inadequate as the Minister can ignore the Committee's advice, despite the fact that it is based on the best available science.

23. WWF-Australia submits that the EPBC Act be amended so that the Minister 'must not act inconsistently' with the IESC's advice when assessing the project and the conditions of consent be required to reflect the IESC's advice.

24. The EPBC Act should also be amended so that the Minister may not approve a project until the proponent has adequately addressed any concerns raised by the IESC in its report.

25. These reforms would ensure both greater community confidence in national environmental laws and decision-making based entirely on the best available science.

### ***Opportunities to improve the effectiveness of the regulation***

26. See comments above.

### ***Efficiency of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects***

27. See comments above.

### ***Recommended appropriate future review points of the regulation***

28. As other MNES are not subject to individual review, WWF-Australia does not believe that the water trigger warrants future review.

29. We note that the EPBC Act already requires the operation of the Act to be independently reviewed every 10 years.

30. The most recent review of the EPBC Act (the Hawke Review) produced an exhaustive and widely consultative report.

31. Rather than ad-hoc reviews of individual MNES, WWF-Australia supports the revisiting of the recommendations made in the Hawke review.

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<sup>2</sup> EPBC Act, s. 136 (2) (fa).

32. If you have any questions about this submission,

[REDACTED]

Yours faithfully,

[REDACTED]

Paul Toni

National Manager – Science, Policy and Government Partnerships

WWF-Australia