

Response ID ANON-XVYX-N2HG-E

Submitted to **Independent review of the 'water trigger' legislation**

Submitted on **2016-01-29 16:02:52**

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No, I would like to continue to complete the questionnaire

TOR 1: Examine the appropriateness of the regulation including whether it is necessary and well targeted

3 Is there a significant likelihood of a substantial negative environmental impact from coal seam gas and large coal mining development on water resources in the absence of the water trigger legislation?

Yes

Please tell us why:

Projects are becoming more numerous and larger in scale. There does not appear to be any other mechanism to assess projects either individually or cumulatively with water resources being placed as the primary asset at risk.

4 Is the scope and focus of the legislation appropriate to the problem being addressed?

No

Please tell us why:

The focus is commendable, the scope is limited. Whilst the IESC has made its views of the potential impacts from aggregations of projects within catchments known there is little legislatively that the Minister has to, or can, have regard to as it related to the cumulative impacts of adjoining projects. This leaves actions to mitigate cumulative impacts that may/should apply to an individual project open to legal challenge.

5 Are there significant gaps in the scope or intent of the legislation?

Yes

Please tell us why:

The assessment of cumulative impacts.

6 Please upload additional information relating to TOR 1 if you wish

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TOR 2: 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 given to the IESC

7 In your opinion has the water trigger legislation been effective in protecting water resources potentially and actually affected by relevant developments?

Yes

Please tell us why::

Difficult to provide evidence that the regulation has been effective, it hasn't been going long enough yet. The regulation has actually affected recent assessed developments as there are new and directly applied conditions flowing from IESC advice. The research Program has led to new and important knowledge that has been incorporated into advice and other assessment mechanisms at various levels.

8 Please upload additional information relating to TOR 2 if you wish

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TOR 3: Identify any opportunities to improve the effectiveness of the regulation

9 Are there gaps in the scope of the legislation that reduce its effectiveness in protecting water resource from relevant developments?

Yes

Please tell us why:

Direct consideration of cumulative impacts.

10 Are there opportunities to improve the clarity of the legislation? This could include responses concerning the definitions of actions which are covered by the legislation, and whether the approval conditions on those developments provide benefit in protecting water resources.

Yes

Please tell us what type/s of opportunities may improve the clarity of the legislation:

The term that drives all subjective assessment is the word 'significance'. Generally there is a risk assessment applied to make the subjective assessment of significance clearer, however in undertaking any risk assessment risks are normally assessed to an agreed set of objectives/values. When attempting to undertake a risk assessment of the impacts of one/number of projects there is very rarely an agreed set of objectives, valued assets or most important landscape functions to assess the risk to. Without an agreed set of valued objectives/assets/functions it is very difficult to assess significance.

11 Are there improvements that could be made to the way in which advice is sought by the Australian Government from the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) that could increase the efficiency of processes required as part of the water trigger?

Yes

Please tell us why:

IESC members have limited time to apply to building their advice, and have done an admirable job in the time and resources allocated. It has been mooted that the work and effort required to rigorously assess each project is the establishment of a full time independent Commission.

12 Were stakeholders appropriately involved in the implementation of the water trigger legislation?

Yes

Please tell us why:

From my understanding most people I have discussed this with have concurred that the regulation was needed, valuable and appropriate.

13 Please upload additional information relating to TOR 3 here if you wish

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TOR 4: Examine the efficiency of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects

14 Have there been additional administrative compliance and delay costs arising from the water trigger that have affected business, community organisations and individuals?

Yes

Please tell us why:

The water trigger adds 60 days to an application. The IESC has made public a set of Information Guidelines considered to be best practice when projects are assessing their impacts, risks and compliance needs for investment purposes. The IESC reviews proposals against this set of guidelines, expecting to see the required information in any proposal. If the advice from the IESC seeks the Minister to ask for additional or further information from the proponent it is difficult to apply that delay to the water trigger.

15 Has the water trigger been beneficial in providing environmental outcomes, community confidence in the regulatory system of applying science to decision-making and management of environmental risk?

Uncertain

Please tell us why:

The sustained level of community opposition to many projects would suggest that the water trigger has not fully provided confidence for the protection of water resources. There are subjective terms (likely, unlikely etc) used by the IESC that are ill-defined as to the level of confidence and uncertainty that the science provides when providing advice on an individual project. It is the assessment of the risk from these terms that does not sit well as there are numerous interpretations of the risk from an 'unlikely' event for example. The risk depends on how directly your own personal world can be impacted upon.

16 Has the water trigger delivered an overall benefit when regulatory costs are compared to the environmental and other benefits?

No

Tell us why:

I am unsure why 60 days adds regulatory costs to a project. The same information should be required by anyone properly assessing a proposal, as it should be

required by the company for its own due diligence. The IESC has provided a substantial benefit in listing information requirements.

17 Have there been additional administrative and other costs to governments arising from the implementation of the water trigger?

Uncertain

Tell us why:

It may be claimed that the costs of the IESC etc have added costs. However the water trigger processes are not duplicating what happens in the regulatory agency, they have moved those costs to an independent body. These are not then additional costs to Government, claiming they do add costs would suggest that there are expectations for a lower level of scientific scrutiny.

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TOR 5: Identify any opportunities to reduce or simplify the regulation whilst maintaining its effectiveness

18 Are there any opportunities to reduce or simplify the regulation whilst maintaining its effectiveness?

Yes

Please tell us more:

Regulatory costs, technical duplication, assessment costs can be duplicated by different levels of jurisdictions undertaking the same role. Water is a national matter, any opportunities to simplify the regulation could be targeted below the Federal level.

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TOR 6: Identify any recommended appropriate future review points of the regulation

19 Are there particular points in time, outside the statutory schedule for the review of the EPBC Act (reviewed every 10 years from commencement) that should be considered as review points for the water trigger?

Yes

Please tell us why:

There should be midway review and a joint review within the EPBC Act

Personal information

20 What is your name?

First name:

Jim

Last name:

McDonald

21 I wish to make this submission anonymously

Not Answered

22 Contact details

Email address:

[REDACTED]

Mailing address:

[REDACTED]

[REDACTED]

Postcode:

[REDACTED]

23 What is your organisation (if applicable)?

Organisation:

Sole Trader

24 What has been your involvement with the Water Trigger legislation?

I am a landowner not directly affected., I am a resident of a community where coal seam gas/large coal projects are imminent or current., I am interested because of my environmental concerns/I am responding on behalf of an environmental group., I am primarily providing a response as a scientific expert or research organisation such as a university or government research body.

Please describe:

25 How did you hear about the water trigger review?

Community organisation or peak body, Word of mouth

If other, how?:

26 Rate the following sources of information regarding the water trigger review.

rank - Department of the Environment website:

Useful

rank - Issues Paper:

Useful

27 Which of the following sources of information do you find useful for information on coal seam gas and coal mining?

Rate sources of information - Media:

Not useful

Rate sources of information - Government:

Neutral

Rate sources of information - Scientific and research bodies such as CSIRO and universities:

Useful

Rate sources of information - Information from community groups and peak bodies (eg websites, newsletters):

Neutral

Rate sources of information - Informal sources such as word of mouth:

Not useful