

Response ID ANON-XVYX-N2FG-C

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

Submitted on **2016-02-02 17:34:48**

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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:

Monitoring and modelling of depressurisation of aquifers due to existing CSG wells has been undertaken by a number of independent hydrogeologists. The evidence now available to the profession shows that this indicator of substantial impacts on landholders' groundwater resources is far greater than that indicated in the Queensland Office of Groundwater Assessment's 2012 Underground Water Impact Report and is considered to be the reason why the issuing of the 2015 UWIR continues to be delayed.

In addition, it is considered that the exemptions and criteria detailed in the "Significant impact guidelines 1.3: Coal seam gas and large coal mining developments - impact on water resources" are inappropriate for realistic impact assessment of new proposals, including the important cumulative and irreversible impacts on available groundwater resources rather than the impacts on individual existing bores.

The reviewer should consider why the "precautionary principle" has not been applied by the Queensland Government. Recognition of how this fundamental principle should be applied would assist the reviewer in developing recommendations as to how it should be applied by state agencies if their recommendations are to be adopted by the Commonwealth under the national agreement.

The reviewer should also consider whether Queensland's system of "adaptive management" is working satisfactorily and whether it should continue to be adopted by the Commonwealth or discarded.

This is a very significant issue and strikes at the heart of the EPBC Act, Queensland's Environmental Protection Act 1994 and a raft of this and other state legislation and policies.

It seems to be contrary to the Precautionary Principle.

The modelling and monitoring needs to be extended to not only identify "trigger levels" of depressurisation but to quantify the volumes and extent of the irreversibly lost water resources and so allow socio-economic impacts to be identified and for provisions for offsetting such impacts be specifically recognised as part of any approval conditions of new or expanding projects.

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

No

Please tell us why:

It does not address the problems caused by exempting the substantial numbers of gas wells approved prior to the implementation of the trigger in 2013 and which have caused irreversible losses of useful groundwater and the accumulation of oceans of saline lakes termed "brine storage ponds".

It would appear that the drafting of the review issues paper has not consulted sufficiently with landholders to have appropriately framed the Terms of Reference.

The focus of the review appears to be on the wording of the legislation rather than the science of water resource impact assessment. This means that the apparent lack of scientific objectivity displayed to date by the Queensland Government's offices is unlikely to be addressed in the review.

It is apparent that the reviewer should take into account the significant delay in the release of the Queensland Government's 2015 Underground Water Impact Report and that the date for completion of the review should be extended until the community and its experts have had the opportunity to review that report and comment upon its conclusions and recommendations and convey their conclusions to the reviewer.

In view of the currently parlous state of the CSG industry and the efforts of at least one company to seek Supreme Court relief in paying royalties to the Queensland Government, such a delay in the completion in the review is unlikely to have an economic impact on governments but would certainly enable the community to have its interests examined more closely than that which occurred in 2013.

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

Yes

Please tell us why:

As indicated above, the current legislation concerning the water trigger is deficient with regard to identifying existing and future impacts - a necessity if cumulative and irreversible impacts are to be adequately determined or if "adaptive management" is likely to be of any real relevance.

The Queensland Government, through its tardiness in establishing credible and accessible impact modelling and monitoring, has failed to achieve an adequate level of adaptive management - in fact it has not achieved anything with regard to managing the impacts of existing wells.

The situation in Queensland is indeed far worse in that the information on CSG well logs and water production rates has been effectively embargoed by the refusal of the gas companies to release this vital data to government assessors or to the professional consultants employed by Landholders seeking realistic make good agreements.

In addition to this, the Queensland Government's Chapter 3 of the Water Act 2000 and the Petroleum and Gas Act 2004 do not have any provisions for landholders to make well-founded assessments of impacts on water resources that could support landholders' and community interests.

It is suggested that a Commission of Inquiry be initiated under the EPBC Act so that the Queensland Government's actions to date in managing the impacts can be subject to the scrutiny to which it has so far avoided.

The Commissioner(s) could then decide what steps the Queensland Government and other state governments should take to ensure that the IESC and the Minister can be assured that the full intent of the water trigger of the EPBC Act has been addressed with each application.

In Queensland we have already suffered significant and irreversible losses of viable groundwater to the CSG industry.

Legislative amendments currently under consideration by the former and current Queensland Governments are likely to exacerbate this unsatisfactory state of affairs by giving virtually unfettered and increased access to groundwater to coal and other projects, as well as to the gas industry to enable them to access water for fracking tight gas wells..

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?

No

Please tell us why::

The Minister's approval of Arrow Energy's Surat Gladstone Project in December 2015 is a classic example of the ineffective power of the Commonwealth's water trigger legislation and the author made representations to the Minister in this regard. Further details can be supplied upon request.

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:

See above

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:

This should be the responsibility of the reviewer after he considers all the submissions.

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?

Uncertain

Please tell us why:

Only state governments have the in-house capacity to adequately condition CSG and coal developments to satisfy acceptable "water trigger criteria". It is considered that the state governments have yet to decide upon what those criteria should be.

This could be an important function of the IESC and would enable them to independently assess state approval conditions.

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

No

Please tell us why:

No one asked - it was a political compromise that has since shown to be quite unsatisfactory.

The only way for stakeholders to have an appropriate involvement is through making presentations to a Commission of Inquiry into how the existing water trigger legislation has performed to date.

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 costs to landholders are considerable. This is a matter which should be examined by the IESC and a relevant economic assessment agency e.g. the Productivity Commission.

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?

No

Please tell us why:

See above

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

No

Tell us why:

See above

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

Uncertain

Tell us why:

Upload file:

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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:

See above

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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?

Uncertain

Please tell us why:

The uncertainty is with us already. Action needs to be taken now.

Personal information

20 What is your name?

First name:

Maxwell

Last name:

Winders

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:

Environmental engineering consultancy; cattle feedlot owner and operator

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

I am a landowner directly affected by current coal seam gas/large coal exploration or extraction on my land.

Please describe:

25 How did you hear about the water trigger review?

Community organisation or peak body

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:

Useful

Rate sources of information - Government:

Neutral

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

Neutral

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

Useful

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

Not useful