

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Environment Protection and Biodiversity Conservation Amendment Bill 2013 [Provisions]

Public Hearing – Thursday, 18 April 2013

Sustainability, Environment, Water, Population and Communities portfolio

Question No: 01

The Committee asked:

CHAIR: We had better have a look at it, but the evidence from Professor Simmons is that—and I am just trying to get this down to the essence of what we are trying to take out of your submission—there is a mixed range of EIS submissions: some are good, some are pretty poor. That is your helpful position put to us; that is not a technical definition of how you would grade these submissions. I do not want to go into the technicalities, but is there a technical grading such that you can say, 'This is what "pretty poor" means', or is it just about the number of faults in the EIS that you look at?

Prof. Simmons: So much of our ability as geologists and hydrologists to make predictions is really predicated on good information and data. We are asking, in almost all situations, questions about flow rates, flow directions, impacts of pumping on rivers or on overlying aquifers. These are really quantitative questions. If we are going to ask quantitative questions, we need quantitative tools like computer models, groundwater models, that are supported by good data.

My field of research expertise is groundwater modelling. In truth, there is no perfect model or absolute right or wrong; often people have said it is quite an artistic process of going from a conceptualisation to a mathematical prediction. But there are ways to look at whether models are performing well or not. We can look at, first, whether there is a groundwater model. If one is not there, that raises some pretty significant questions from the outset and our ability to make predictions in the absence of using fundamental calculators such as groundwater models. But, assuming there is one, there are a whole range of things we would look at. One part of that would be model calibration, for example—the ability of a model to reproduce historical data in a system, so it improves our confidence to make predictions about the future and so on.

CHAIR: Professor Simmons, can I ask you to take that question on notice.

Prof. Simmons: Okay.

CHAIR: I am not looking for a super-technical answer. The issue that I am finding more and more here—I am sure some others on the committee are too—is the issue of a social licence for some of these companies to operate. If the community are looking at some of these models, and you say they are complex, Professor, and you deal with this area, then the community can have no confidence if it is too complex. The complexity may be important to deliver a proper outcome, but how do we then deal with the issue of social licence and community confidence in the work that you are doing? Can I ask you to give us some response on notice on how you see that evolving. You have not been doing it for long, so am asking you how you would see that evolve to give the community confidence. And what access would the community have to your work, to understand in laypersons' terms, that everything is kosher—if I can use that word?

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Answer:

There is no technical grading system for the quality of information furnished within Environmental Impact Statements. The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (the Committee) assesses project proposals in line with the Information Guidelines developed by the Committee which have been published on the website.

The Committee uses the checklist included in the Information Guidelines as a guide against which to assess the information and modelling provided. The expert deliberations by the Committee provide the basis for the development of its independent advice on individual projects. This advice is also made public on its website.

The Committee established a process at its April 2013 meeting to include in its project advice its consideration of the three key criteria identified in the Information Guidelines as to whether the proponent's assessment has used namely: relevant data and information, appropriate methodologies which have been applied correctly and reasonable values and parameters in calculations.

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Question No: 02

The Committee asked:

Senator MCKENZIE: The EPBC Act defines a 'water resource' as:

- (a) surface water or ground water; or
 - (b) a watercourse, lake, wetland or aquifer (whether or not it currently has water in it);
- and includes all aspects of the water resource (including water, organisms and other components and ecosystems that contribute to the physical state and environmental value of the water resource).¹

However, the bill does not identify which water resources would be matters of national environmental significance.

Do you know which water resources would be deemed to be matters of national environmental significance? That is, water resources in which geographic locations would be MNES (for example, the Great Artesian Basin, the Murray Darling Basin)?

Answer:

This is a matter for the Government rather than the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development.

¹ See EPBC Act 1999, s 528 and Water Act 2007, s 4.

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Question No: 03

The Committee asked:

Senator MCKENZIE: The IESC appears to have a heavy work load and to be experiencing a backlog.

- Could you comment on the resources you have available to address the work load
- The Committee meets once a month. Is that frequently enough given the work load?

Answer:

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (the Committee) is not aware of a backlog on project advices at the present time. The Committee has scheduled meetings monthly and meetings have varied in length from two to four days, depending on the number of projects that have been referred for advice.

The Committee is supported by the Office of Water Science within the Department of Sustainability, Environment, Water, Populations and Communities. Committee members are provided with remuneration commensurate with attending monthly meetings and assessing an assumed level of proposals.

Given the timeframes needed to develop the appropriate supporting information to enable the Committee to provide its scientific advice, it would not be feasible to meet at any greater frequency than once a month. If necessary, the Committee can, and has done, out of session work.

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Question No: 04

The Committee asked:

Senator MCKENZIE: On page 4 of the Explanatory Memorandum to the bill, the Government refers in paragraph 5 to 'a significant impact on a water resource'.

- Does this mean any water resource?
- Is there a threshold for making this determination? If so, please quantify.

Answer:

This is a matter for the Government rather than the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development.

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Question No: 05

The Committee asked:

Senator MCKENZIE: Is the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development working as envisaged? How would you rate its effectiveness?

Answer:

Assessing the effectiveness of the implementation of the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development is a matter for the Council of Australian Governments' Reform Council.

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Question No: 06

The Committee asked:

Senator MCKENZIE: The committee has heard evidence that advice has been given to the Minister, but the Minister has stated that he is not able to use it. What is the IESC's understanding in relation to that assertion?

Answer:

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development is able to provide advice to the Commonwealth Environment Minister on matters related to current Matters of National Environmental Significance in accordance with the *Environment Protection and Biodiversity Conservation Act 1999*. Legal interpretations of the powers in the legislation should be referred to the Government.

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Question No: 07

The Committee asked:

Senator MCKENZIE: Did the IESC provide advice to the Minister or the Department as to the need for the 'water trigger' amendment?

Answer:

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development did not provide advice to the Minister or the Department as to the need for the 'water trigger' amendment.

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Question No: 08

The Committee asked:

Senator MCKENZIE: Have you received any indication from the parties subject to the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development that the IESC is not fulling [sic] its role in providing advice in accordance with the terms of the Agreement?

Answer:

No.

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Question No. 09

The Committee asked:

Senator MCKENZIE: What proportion of the IESC's advice is acted on:

- By the Commonwealth Government
- By the State Governments?

Answer:

Information on the proportionate take up of advice across the three main functions of the Committee, project advices, bioregional assessments and research priorities, cannot be assessed at this early stage.

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Question No: 10

The Committee asked:

Senator MCKENZIE: What evidence has the IESC seen that would require the addition of the 'water trigger' to the Matters of National Environmental Significance?

Answer:

This question should be referred to the Department of Sustainability, Environment, Water, Populations and Communities.

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Question No: 11

The Committee asked:

Senator MCKENZIE: What impact will the proposed changes have on the role and function of the IESC?

Answer:

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Developments (the Committee) will continue to provide advice on water related impacts of coal seam gas and large coal mining projects that are referred to it by the Australian, Queensland, New South Wales, Victorian and South Australian Governments. If the amendment is passed, coal seam gas and large coal mining projects in other Australian states may be referred to the Committee for advice.