

Submission on the *Environmental Protection and Biodiversity Conservation Amendment Bill (2013)*

We are writing to say that we strongly support this Bill hope that it is passed through Parliament as quickly as possible. We believe this Bill is essential to strengthen the *Environmental Protection and Biodiversity Conservation Act* (EPBC Act) and ensure that it has sufficient coverage to fully protect threatened species and ecosystems.

One general point we would like to make is that the Bill somewhat tightens up the exemptions currently available in the EPBC Act, and we strongly support this. However, we think that exemptions should be tightened still further, to ensure that key projects, such as the Arrow CSG project in Queensland and the Russell Vale Colliery project in the Illawarra, are not and cannot be exempted. To achieve this aim, we support removing sections 22(b) and 22(d) from the Bill. As a general principle, we believe there should be as few exemptions as possible, and the emphasis in any redrafting should be towards removing exemptions rather than retaining or adding to them.

While we believe it is important to pass this Bill as soon as possible, so as to protect water resources to the extent permissible under the Bill, we would like to draw attention to what we see as some weaknesses in the Bill as currently drafted. We would support these changes being considered in any future review of the Bill or at any other convenient time.

First, the Bill needs to define ‘significant impacts’ on water resources, or at least to provide much clearer guidance on how to interpret this term. Given that development proponents are responsible for notification of projects that will have a ‘significant impact’ on water resources, and also given that it is in the interests of proponents to avoid having to make notifications, a Bill that leaves it up to proponents to interpret the meaning of ‘significant impacts’ is going to make it tempting for proponents to assume that development projects do not have any significant impacts.

Second, the Bill should provide a stronger role for the Independent Expert Scientific Committee. They should have more input into decision-making and more prerogative to provide information, advice and recommendations to the Minister. Additionally, if the Minister makes a decision that goes against any recommendation from the Independent Expert Scientific Committee, the Minister should provide clear reasons for why he or she has done so.

Third, the Bill leaves the Minister for Environment enormous discretion in making decisions on water resource impacts. This degree of discretion is unnecessary, and we believe the Bill should include specific requirements regarding the matters that the Minister should take into consideration when making decisions.

Fourth, the coverage of the Bill is limited to coal and coal seam gas projects. While it is important that these types of projects are covered, there is also a case to include under the scope of the Bill all types of unconventional gas extraction which are occurring with greater frequency in Australia, including shale gas, tight gas, and unconventional coal mining. These may pose as great or greater risks to water resources as coal and coal seam gas mining, and would naturally be treated under the same legislative instrument for considering impacts on water resources.