

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra, ACT 2600

24 April 2013

Dear Secretariat,

The Nature Conservation Council of NSW (NCC) is a non-profit, non-government organisation representing more than 100 community environment groups across NSW. We appreciate the opportunity to present at the Inquiry into the Environment Protection and Biodiversity Conservation Amendment Bill 2013 in Sydney on 17 April 2013.

To follow up our testimony, here is the response to a question on notice from Senator McKenzie.

Question on notice:

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).

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

Response:

The intention of the Environment Protection Biodiversity Conservation Amendment Bill 2013 (EPBC Bill 2013) is to establish a new matter of national environmental significance in relation to the significant impacts or likely significant impacts of coal seam gas development and large coal mining development on a water resource.

The trigger for initiating the federal approval process would be the significance of the impact of coal seam gas and coal activity on a water resource, not the significance of the water resource.

Therefore, it is not necessary for the purpose of the EPBC Bill 2013, to identify particular water resources as being deemed to be matters of national environmental significance. The definition of water resource under the EPBC Act is appropriate and the trigger for determining whether federal approval is required is whether there will be a significant impact on the water resource.

I also note for each existing matter of national environmental significance guidelines have been developed to assist the Minister and the Department to determine whether an activity will have a significant impact on a matter protected under the EPBC Act. This new matter of national environmental significance would also require guidelines to be developed to assist the Minister and Department to determine whether a proposed activity would have significant impacts on a water resource.

The National Partnership Agreements signed between state and Federal governments in relation to coal and coal seam gas mining, provide a comprehensive definition of a significant impact on water resources. However, the EPBC Bill 2013 does not seek to include that definition in the EPBC Act. Furthermore, under Part 9 of the EPBC Act, requirements are provided for the Minister to consider when making his decision about an activity for each of the existing controlling provisions. However, the EPBC Bill 2013 does not seek to introduce any requirements under Part 9 in relation to water resources. The ability to protect water resources in the future, will depend on the provision of a strong definition or requirements under Part 9 for water resources.

Please be in touch if you require any further information from the Nature Conservation Council of NSW on this matter.

Yours sincerely,

Cerin Loane