



114 Boundary Street
Railway Estate, Townsville
Qld, 4810
PO Box 364, Townsville
Ph: 61 07 47716226
office@nqcc.org.au
www.nqcc.org.au

Dianne Warhurst
Administrative Officer
Senate Standing Committee on Environment and Communications

ec.sen@aph.gov.au

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Dear Ms Warhurst

Follow-up material requested by the Committee in relation to the Inquiry into the EPBC Amendment (Retaining Federal Approval Powers) Bill 2012

During the teleconference with the members of the Senate Standing Committee on Environment and Communications on 8 February 2103 in relation to the above-mentioned bill, Senator Waters asked me to provide information about:

'The Alpha coal mine approval.... Detail about what happened there and how that assessment bilateral—the process of the Commonwealth accrediting the state's environmental impact statement process—was breached and yet the Queensland government turned a blind eye'.

I committed to providing this information by Friday 15 February 2103. The details as I know them are presented below.

The Queensland State government gave its conditional approval for the Alpha coal mine on 29 May 2012. Its assessment of the project's EIS was conducted under the Bilateral Agreement between the State and the Federal governments. Under this Agreement, the State is required to use its delegated power to assess the project under the Federal EPBC Act.

Response from Greenpeace was swift; its 30 May Media Release included the following statements:

The report doesn't even model cumulative groundwater impacts; they haven't even done a biodiversity survey of all of the rail line, and the flood modelling of the rail line seriously inadequate."

Some of the obvious problems with the Co-ordinator General's assessment include

- *The cumulative impacts of Galilee Basin mining on groundwater quality and availability are not understood and have not even been modelled (page 282).*
- *The environmental impacts of the rail line are not known. The proponent has not even conducted a complete biodiversity field survey of the proposed rail line route (page 353)*
- *The flood modelling conducted by the proponent is not even able to replicate historical data. It can't even accurately match historical flooding, but has been considered adequate to allow approval of a rail line which has the potential to massively disrupt flood flows (Page 353).*

On 2 June 2012, Queensland Premier Newman, while discussing the environmental protection of the Great Barrier Reef, was widely quoted as saying 'We're in the coal business'.

Over the ensuing days, and despite the Bilateral Agreement requiring the parties to the Agreement to act 'in a spirit of cooperation and consultation' and despite the proponent acknowledging in the Executive Summary of the EIS that:

'... the Commonwealth Minister for the Environment, Water, Heritage and the Arts will review the EIS to ensure that it adequately addresses the requirements of the Environment Protection and Biodiversity Conservation Act 1999. The Minister's assessment will follow preparation of the assessment report by Department of Infrastructure and Planning',

the State government prevaricated on complying with the Minister Burke's request for the State to reopen the assessment, eventually refusing to do so. (See, for example, *Mining Weekly* 5 June 2013 and Media Alert from Minister Burke of the same date).

On 15 June, with the State refusing to acknowledge the need for further and better information and refusing to cooperate, Federal Minister Burke put out a media release noting that staff from his Department had met twice with the project proponent to obtain further information and noted that:

Four key issues have been identified that need to be addressed by the company. These are:

- the need for more work on species habitat modelling and surveys to ensure the impacts on matters of national environmental significance, including listed migratory species in the Caley Valley Wetlands, and listed threatened species and ecological communities;*
- the need to ensure that rail loop impacts from earthworks run off, including impacts on the national and world heritage listed Great Barrier Reef and on marine species, are mitigated, particularly in relation to the potential impacts on the near-shore habitat for dugongs, turtles and dolphins;*
- clarifying the way the company's cumulative impacts studies on Abbot Point interacts with other cumulative impact studies on the port; and*
- the need for an enhanced "like-for-like" offsets package.*

On 20 June, Minister Burke requested advice on the Alpha EIS from the Independent Expert Scientific Committee on Coal Seam Gas and Coal Mining.

Their report of 20 July 2012 corroborates the concern of Greenpeace and other conservation bodies, including NQCC, stating:

1) The committee notes that developments in the Galilee Basin are going to be large in scale, where significant tributaries to the Burdekin Catchment will be dissected by mines along a strike of over approximately 300 km. The Alpha proposal could be a significant part of this, being approximately 30 million tonnes per year over 30 years. This would be one of the largest coal mines in Australia. The committee considers that information relating to the potential impacts of this project should be commensurate with its scale.

2) The committee notes that substantial information has been provided by the proponent to address impacts of the proposed project in the Galilee Basin. However, in relation to relevant water matters, the committee advises that information presented could be improved by providing:

- a) further details of the measured hydrogeological data, and groundwater model parameters, uncertainties, confidence and transparency*
- b) a site and regional water balance*
- c) surface water quantity and quality impacts*
- d) associated risk assessments; and*
- e) mitigation measures to appropriately address risks.*

Such information would be expected for a project of this scale and is integral to allowing an informed and robust scientific consideration of the project.

3) Given the pending development scenarios, the committee advises that the cumulative surface and groundwater impacts in the region have not been assessed. Based on the limited information presented, in particular, on cumulative impacts, the committee has considerable concerns relating to the scale and extent of impacts associated with the project. A regional cumulative impact assessment should be undertaken as a matter of priority.

4) The committee notes that an independent due diligence assessment has been undertaken on the proponent's initial groundwater model report. The groundwater model report was revised based on this assessment. However, a regional water balance has not been provided to place the project in context.

5) The committee further recommends that the regional cumulative impacts (covering surface water, groundwater, geomorphological, hydrological and ecological impacts) be adequately assessed and appropriately influence the conditioning and management of the project development phases.

6) In terms of the specific advice requested, the committee notes that based on the information provided that:

- a) the proposed mine is in close proximity to the eastern margin of the Great Artesian Basin. The committee notes that there was not enough information to make an assessment as to the integrity of the Rewan Formation as an aquitard in this area to restrict connection with the Great Artesian Basin. In the absence of this assurance, it would be necessary to highlight the risks posed to the Great Artesian Basin from the current proposal, as well as future proposals.*
- b) the region's hydrology and water quality may be affected by the scale of the proposed projects significantly*

reducing the quantity of surface water in the region; acid water drainage, especially after water quality in the final void deteriorates; the diversion of Lagoon Creek; emergency discharges of contaminated water; leachate from the onsite landfill; and the use of overburden to backfill open-cut pits. As specific risks cannot be quantified without an adequate water balance, surface water cumulative impact study, or solute balance, it is difficult to assess the adequacy of mitigation measures to reduce impacts to an acceptable level, including acid water drainage which may impact on the water quality of the Burdekin Catchment.

c) habitat for listed species will primarily be affected by the cumulative quantity of water intercepted in the catchment; acid water drainage; the diversion of Lagoon Creek; and the rail loop which intersects the Caley Valley Wetland.

d) the proposed railway loop intersects a substantial portion of the Caley Valley Wetland. This has potential to significantly impact on the values of the wetland both directly through its location, and indirectly through changes to water quality resulting from changes in freshwater and tidal hydrology, and release of contaminants and oxidation of potential acid sulphate soils to the Wetland during and after construction. However, the proponent intends to offset their impact to the Wetland via land and financial (in-kind) contributions. The committee is not confident that the proposed offsets are sufficient, especially regarding the quality of offsets compared to cumulative impacts and outcomes sought.

7) In summary, the committee recommends that the Galilee Basin component of the wider Lake Eyre Basin bioregional assessment be conducted as a matter of priority, in order to assess regional cumulative impacts. Specifically, the bioregional assessment should include an assessment of groundwater impacts associated with the Galilee Basin (which may affect the Great Artesian Basin to the west), and surface water impacts associated with the Burdekin Catchment (which may be impacted to the east). Further, a regional and site water balance should be provided as baseline information, and a regional risk-based approach should be developed to examine local and regional impacts. Any proposed models should be peer reviewed and publicly released.

On 24 August Minister Burke announced his approval of the Mine with conditions, including:

- The proponent will be required to submit a Caley Valley Wetland Management Plan for the Minister's approval and to ensure that coal dust impacts on the Caley Valley Wetland are minimised through various measures including covered wagons or equivalent.
- A Matters of National Environmental Significance Management Plan to maximise the ongoing protection and long term conservation of EPBC listed threatened fauna
- Several management plans will manage potential impacts on the values of the Great Barrier Reef World Heritage Area and species including dugongs, turtles and migratory birds
- Significant and comprehensive land offsets to protect listed threatened ecological communities and species
- A proponent-established trust, with initial funding of \$2 million, to conduct research on the black-throated finch and the squatter pigeon, with provision for a more strategic approach to protect all key species in the Galilee Basin in the event that any further mines are approved in the basin,
- Management plans covering mine rehabilitation, vegetation, water quality and regional impacts on water quality, and
- Identify threshold limits and management measures for any coal dust impacts on the Great Barrier Reef World Heritage Area and reporting to the Great Barrier Reef Marine Park Authority every six months.

Following the approval of the project by Minister Burke, the Brisbane Times wrote: 'Mr Seeney accused the federal government of being driven by philosophical environmental aspirations that are "very difficult to translate into reality".'

In summary, the Queensland State government refused to cooperate with the Federal government despite a lack of information flagged in submissions, and subsequently confirmed by the Federal Minister and the Independent Expert Scientific Committee.

This particular case is an example. The State government has repeatedly demonstrated an enthusiasm for economic development (especially on the basis of fossil fuels – coal, coal seam gas, uranium and now shale oil) that overshadows consideration of environmental imperatives.

The current Queensland government is unlikely to be the only state government to demonstrate tendencies to ignore or override matters of national environmental significance in favour of local economic development, now and in the future. Indeed, Australia's Federal system provides incentives for States to favour local over national issues, which introduces the problem of moral hazard when making decisions.

It is for this reason, that the powers under the EPBC Act 1999 must be retained by the Federal government.

Wendy Tubman
Coordinator