

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 122

**Topic:** Queensland Water Commission  
report – Surat Basin

**Proof Hansard Page and Date** 73-74

**or Written Question:** (23/5/12)

**Senator Waters asked:**

Senator WATERS: On coal seam gas, the Queensland Water Commission has just—I think it was last week—released its draft underground water impact report for the Surat Cumulative Management Area...The question that I am interested in is that it reaches a conclusion about the cumulative impacts on groundwater which is actually different from the conclusion reached by Arrow Energy in their environmental impact statement seeking federal approval under the EPBC Act. Again, on the cumulative impacts of coal seam gas on groundwater in the Surat. Is the department aware of that discrepancy and can you explain it?

Mr Parker: We will have to take that question on notice. The specifics of what is in the Arrow environmental impact assessment we would need to refer to the part of the department that does the EPBC process.

Senator WATERS: ...The flow-on question, which you might also need to take on notice, is: which information will the Commonwealth rely on? Will it rely on a Queensland government statutory body assessment which says cumulative impacts will be so much or will it rely on that Arrow EIS, which in fact says cumulative impacts will be worse—counterintuitively, given that it is a proponent-driven document? That is my question: which will the Commonwealth rely on when it is doing its various assessments? If I may ask a supplementary question, will those documents be referred to the new independent CSG committee once it is established, assuming the bill passes, to examine? Sorry, Dr Grimes; you have got something?

Dr Grimes: I was just going to say that we would rely on the best possible information that was available at the time. We would obviously have to make an assessment of what we considered to be the best possible information, and of course we would be relying also on advice from the Independent Expert Scientific Committee in future matters that are being considered.

Senator WATERS: Thank you. Perhaps in that question on notice reply you could outline how you identify which is the best information, the criteria and parameters.

Dr Grimes: I am happy to take that on notice.

**Answer:**

The Department of Sustainability, Environment, Water, Population and Communities (the department) is aware that the cumulative groundwater impact figures presented in the Queensland Water Commission's Draft Underground Water Impact Report for the Surat Cumulative Management Area (QWCDUWIR) (released May 2012) differ to the figures presented in Arrow Energy's Surat Gas Project Draft Environment Impact Statement (EIS) (released March 2012) available for public comment between 5 March and 31 May 2012. Where the reports rely on modelling rather than actual data, they will necessarily be predictive, and their respective conclusions will be influenced by their methods and underlying assumptions.

The department has asked the proponent to consider the findings on cumulative groundwater impact in the QWCDUWIR in their supplementary EIS.

The Minister will consider all the available information relevant to assessing impacts on matters of national environmental significance when making a decision on whether or not to approve a project. The best available information will be relied on, it will be scientifically robust, up to date and credible.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 123

**Topic:** Canyon Coal Mine – Coalpac Pty Ltd's obligations to stop polluting the World Heritage area

**Proof Hansard Page and Date** 5

**or Written Question:** (23/5/12)

**Senator Cameron asked:**

CHAIR: What obligations does Coalpac Pty Ltd have to stop chemical discharge from its closed Canyon Coal Mine from polluting the World Heritage area?

Dr Dripps: There are a range of obligations that relate to the protection of World Heritage areas, and they come from both state and Commonwealth law... It might be best, Senator, if we were able to provide the detail of the obligations that relate to this company as a response on notice.

CHAIR: I would appreciate that. Could that be a chronological approach?

Dr Dripps: Yes.

**Answer:**

- World Heritage properties and National Heritage places are recognised as matters of national environmental significance under Australia's national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act).
- The Greater Blue Mountains World Heritage Area Strategic Plan, a joint New South Wales-Commonwealth plan covering the World Heritage Area, is a non-statutory plan that was published in 2009. It establishes general management principles and directions, and identifies key issues and proposed actions for dealing with them. Each of the eight conservation reserves that comprise the World Heritage Area has its own statutory management plan prepared under New South Wales legislation, that deal in greater detail with more site-specific matters for each reserve. Day-to-day management of the Greater Blue Mountains World Heritage Area is the responsibility of the New South Wales Office of the Environment and Heritage through its National Parks and Wildlife Service.
- The Greater Blue Mountains World Heritage Area Management Committee, comprised of senior Department of Sustainability, Environment, Water, Population and Communities and NSW Office of Environment and Heritage staff is a forum to consider major issues. The Department of Sustainability, Environment, Water, Population and Communities (the department) is also in regular contact with local New South Wales Office of the Environment and Heritage staff and a departmental officer attends most of the quarterly Greater Blue Mountains World Heritage Area Advisory Committee meetings to provide the Commonwealth perspective on management issues to stakeholders and for briefings on emerging issues.

- In addition to the Commonwealth EPBC Act, the protection and management of the reserves which make up the Greater Blue Mountains World Heritage Area are subject to several other acts which are administered by New South Wales. These include, but are not limited to, the *National Parks and Wildlife Act 1974* and the *Wilderness Act 1987*. The World Heritage Area is also subject to the *Threatened Species Conservation Act 1995*, the *Environmental Planning and Assessment Act 1979*, the *Sydney Water Catchment Management Act 1998* and the *Heritage Act 1977*.
- The former colliery ceased operations in 1997, prior to the introduction of the EPBC Act. At that time the Canyon Coal Mine held an “*Environmental Protection Licence*” issued by the NSW Government to discharge waste water into the Grose River. The department has followed up with the NSW Government and has been advised that Coalpac Pty Ltd is acting in accordance with State requirements.
- As far as federal obligations, as the application of the EPBC Act is not retrospective, the provisions of the EPBC Act are quarantined over the current mine site. The EPBC Act may have effect, however, if circumstances change such as through the implementation of an active rehabilitation plan over the site. The department will continue to follow the developments around this site accordingly.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 124

**Topic:** Canyon Coal Mine – Estimates of the damage to the World Heritage area

**Proof Hansard Page and Date** 5

**or Written Question:** (23/5/12)

**Senator Cameron asked:**

CHAIR: What are the department's estimates of the damage to the World Heritage area as a result of the chemical pollution flowing into the Grose River?

Dr Dripps: I do not believe we have that information on hand. We can take that question on notice.

...

CHAIR: ...Could you then advise on notice—I am happy for that to be on notice—as to what steps have been taken once you have understood the environmental damage that is taking place?

Dr Dripps: Yes, certainly.

**Answer:**

- The Canyon Coal Mine operated between 1960 and 1997, prior to the commencement of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The New South Wales Department of Trade and Investment (Mineral Resources) is responsible for the mine closure plan, which was approved in 2010.
- Information obtained by the Department of Sustainability, Environment, Water, Population and Communities (the department) from the New South Wales Department of Trade and Investment (Mineral Resources), indicates that nickel and zinc are entering the Grose River within the Greater Blue Mountains World Heritage Area. The metals originate from minerals released from sandstone, fractured by mining.
- The department understands that the release of these metals into the Grose River may have the potential to harm sensitive aquatic organisms, however the extent to which this has impacted on the Greater Blue Mountains World Heritage Area has not been assessed.
- The department has reviewed the Canyon Colliery Mine matter to establish whether the mine is in breach of the EPBC Act.
- The EPBC Act provides exemptions for actions which pre-date the EPBC Act or which hold prior environmental authorisations. The former colliery ceased operations in 1997, prior to the introduction of the EPBC Act. At that time the Canyon Coal Mine held an "*Environmental Protection Licence*" issued by the NSW Government to discharge waste water into the Grose River.

- According to the Department of Trade and Investment (Mineral Resources), metal concentrations in the discharges have fallen significantly over the last 10 to 15 years and are expected to continue to fall slowly.
- In 2009 an independent commission set up by the New South Wales Government concluded that natural attenuation was the best option for the site as treatment such as 'capture and release' would involve clearing for construction, roads and power requirements that are considered likely to have far greater impacts on the World Heritage Area than the current discharge.
- The department has been advised that in 2013, following a three year water monitoring program, the matter will be reviewed by the NSW Government. The department will continue to follow this matter.

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 125

**Topic:** Canyon Coal Mine – Legislative powers to enforce action from Coalpac Pty Ltd

**Proof Hansard Page and Date** 5-6

**or Written Question:** (23/5/12)

**Senator Cameron asked:**

CHAIR: Could the Commonwealth use its powers under section 51(xx) of the Constitution—that is, the corporations power—to legislate specific action and obligations on Coalpac, which is the owner of the Canyon Coal Mine, to remedy the pollution, given the failure of the state government to use its powers to impose obligations to clean up the pollution?

Dr Grimes: We would not be in a position to answer it now. We can take it on notice and see if there is anything that we can provide you on notice.

CHAIR: Okay. This is a similar question, but I want you to take it on notice as well. Could the Commonwealth use its powers under section 51 (xxix)—that is, the external affairs powers—to impose obligations on Coalpac to desist from polluting the World Heritage area?

Dr Grimes: Again, Senator, that would be something that would be more appropriately taken on notice.

**Answer:**

- The former colliery ceased operations in 1997, prior to the introduction of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). At that time the Canyon Coal Mine held an “*Environmental Protection Licence*” issued by the NSW Government to discharge waste water into the Grose River. The Department of Sustainability, Environment, Water, Population and Communities (the department) has followed up with the NSW Government, and have been advised that Coalpac Pty Ltd is acting in accordance with State requirements and that levels of metals entering the river are declining.
- In 2009 an independent commission set up by the New South Wales Government concluded that natural attenuation was the best option for the site as treatment such as ‘capture and release’ would involve clearing for construction, roads and power requirements that are considered likely to have far greater impacts on the World Heritage Area than the current discharge.
- The department has been advised that in 2013, following a three year water monitoring program, the matter will be reviewed by the NSW Government. The department will continue to follow the developments around this site accordingly.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 126

**Topic:** South of Embley Bauxite mine –  
Possible breach of the EPBC Act

**Proof Hansard Page and Date** 35

**or Written Question:** (23/5/12)

**Senator Boswell asked:**

Senator BOSWELL: The Wilderness Society submission goes on to suggest that the minister consider whether the proponent had provided false and misleading information and may be guilty of an offence under section 489 of the EPBC Act. Did the department consider whether Rio was in breach of section 489?

Dr Dripps: I would have to take advice from the officers involved, who are back in the department at the moment, so I would like to take that question on notice.

**Answer:**

The Department of Sustainability, Environment, Water, Population and Communities has not identified any contraventions of the *Environment Protection and Biodiversity Conservation Act 1999* by RTA Weipa Pty Ltd relating to their proposed South of Embley Bauxite Mine and Port Development project (EPBC 2010/5642).

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 127

**Topic:** South of Embley Bauxite mine –  
provision of advice to the Minister

**Proof Hansard Page and Date** 40

**or Written Question:** (23/5/12)

**Senator Boswell asked:**

Senator BOSWELL: I refer to the Wilderness Society submission about the bare-rumped shear-tail bat and the crab species. This valid request included that. What other significant information was available that the minister made the decision on? Was there any other significant information, or could you nominate the significant information?

Mr Knudson: In making this decision on 15 March, the minister considered advice from the department, from the Great Barrier Reef Marine Park Authority, the proponent and two public comments received during the invitation to comment period.

Senator BOSWELL: Could you furnish a copy of that advice, please?

Dr Dripps: We can take that question on notice, Senator.

Senator BOSWELL: Is there any reason why that advice could not be given to us?

Dr Dripps: Only if it contained commercial-in-confidence material. I would need to check that, Senator, which is why we would prefer to take it on notice.

**Answer:**

Documentation considered by the Minister for Sustainability, Environment, Water, Population and Communities in his reconsideration decision of 15 March 2012 for the proposed South of Embley Bauxite Mine and Port Development project (EPBC 2010/5642) is available on the Department of Sustainability, Environment, Water, Population and Communities' website at: [http://www.environment.gov.au/cgi-bin/epbc/epbc\\_ap.pl?name=current\\_referral\\_detail&proposal\\_id=5642](http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=5642)

In addition, the Minister considered information contained in the proponent's (RTA Weipa Pty Ltd) draft Environment Impact Statement for the South of Embley Project (August 2011) which is available on their website at: [www.riotintoalcan.com/ENG/ourproducts/1818\\_environmental\\_impact\\_statement.asp](http://www.riotintoalcan.com/ENG/ourproducts/1818_environmental_impact_statement.asp).

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 128

**Topic:** Western Australian Land Authority  
(LandCorp) Court Decision

**Proof Hansard Page and Date** 44

**or Written Question:** (23/5/12)

**Senator Birmingham asked:**

Senator BIRMINGHAM: The plaintiff's action, LandCorp, was successful against the government?

Mr Knudson: On one element, yes.

Senator BIRMINGHAM: Can you describe that element for me?

Mr Knudson: It was as you described it, the issue of natural justice.

Senator BIRMINGHAM: What failings were there that denied that issue of natural justice to Landcorp?

Ms Jones: Unfortunately, I do not have the full details of the judgement here. It is publicly available, so I would probably prefer to take that on notice to accurately come back to you on the detail.

**Answer:**

There were three areas where the court found that LandCorp was denied natural justice:

- The court found that the Department of Sustainability, Environment, Water, Population and Communities' (the department) assessment documentation reflected the department's accumulated knowledge and approach in assessing proposed actions, and in taking this information into account in reaching the decision, such information should have been disclosed to LandCorp;
- Information about other developments in the region and their likely cumulative impact which was counter to the applicant's interest and employed in arriving at the delegate's decision ought to have been provided to the applicant for comment; and
- The delegate had understood that the other projects and their cumulative effects were not taken into account in the expert report provided by LandCorp, and that this understanding was a matter which fairness required to be put to the applicant for comment.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 129

**Topic:** Thomson River Catchment ecological report

**Proof Hansard Page and Date** Written

**or Written Question:**

**Senator Heffernan asked:**

1. It cost companies over \$150k to get an EPBC permit for the Upper Goulburn River project, a particular company applied for a second EPBC permit for a project in the Thomson River catchment in Victoria and the EPBC Department asked them to spend \$80,000 on an ecological report for the catchment in the full knowledge that DSE Victoria were going to “controlled burn” the same area at the same time without any form of EPBC permit. –

How do you justify a fee of \$80,000?

**Answer:**

1. The timing and cost of preparing assessment documentation is a matter for the person or organisation responsible for the proposal. Fees are not charged for approvals considered under the *Environment Protection and Biodiversity Conservation Act 1999*.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 130

**Topic:** Mercury removal from the Upper Goulburn River

**Proof Hansard Page and Date** Written

**or Written Question:**

**Senator Heffernan asked:**

1. Your department has already issued an EPBC permit for a project in Victoria to remove mercury from the Upper Goulburn River (EPBC 2010/5477). Please provide a briefing paper and/or update into this matter?

**Answer:**

1. On 6 May 2010, the company AgroEco Systems submitted a referral to the Department of Sustainability, Environment, Water, Population and Communities (the department) under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) for the sampling and removal of mercury from parts of the Upper Goulburn catchment.

The project was approved with conditions on 21 October 2010. The approval for the project was transferred to the company Hg Recoveries Pty Ltd on 26 October 2010. An Operational Procedures Manual for the project was approved by the department, pursuant to Condition 2 of the EPBC Act approval, on 8 March 2011. A variation to Condition 1 of the EPBC Act approval was approved by the department on 23 March 2011.

Under Condition 4 of the EPBC Act approval, Hg Recoveries Pty Ltd must advise the department of the date of commencement of the sampling and removal of mercury, within 7 days of this commencement. This has not yet occurred.

Under Condition 6 of the EPBC Act approval, if the action has not commenced within 3 years of the date of the approval, then further agreement from the department may be required before it can commence.

Documentation regarding this project, including the EPBC Act conditions of approval, is publicly available on the department's website, at the following link:  
[http://www.environment.gov.au/cgi-bin/epbc/epbc\\_ap.pl?name=current\\_referral\\_detail&posid=5477](http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&posid=5477)

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 131

**Topic:** Wild dog baiting

**Proof Hansard Page and Date** Written

**or Written Question:**

**Senator McKenzie asked:**

1. Where is the Victorian Government's wild dog baiting application, submitted under the Commonwealth's Environment Protection and Biodiversity Conservation Act currently at?
2. What is the department's view on the difference between wild dog baiting currently occurring in QLD and NSW and proposals for Vic?

**Answer:**

1. On 21 December 2011, the Department of Sustainability, Environment, Water, Population and Communities (the department) determined that the Victorian Government's proposal, to conduct an aerial baiting program for wild dogs in 10 areas in the north eastern and Gippsland regions of Victoria using 1080 poison, will need further assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) before it can proceed. The department determined the proposal would be assessed by preliminary documentation, and requested this preliminary documentation from the Victorian Department of Primary Industries on 21 December 2011.

The department is currently awaiting the preliminary documentation from the Victorian Government so that the assessment can proceed. The provision of this information to the department is a matter for the Victorian Department of Primary Industries.

2. With regards to the requirements of the EPBC Act, all individual proposals are considered on their merits, according to the particular impacts that each proposal may have on nationally protected matters. For example, the distribution of listed threatened species, which may be vulnerable to aerial baiting impacts, differs across regions.

Previous EPBC Act referrals for aerial baiting proposals in Victoria, as well as in New South Wales, have resulted in decisions that specific baiting activities did not require further assessment and approval under national environment law. No referrals have been received for aerial baiting in Queensland. Any future baiting proposals referred to the department will similarly be considered on their merits, regardless of the State or Territory where the proposal is located.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 132

**Topic:** Regional Sustainability Plans

**Proof Hansard Page and Date** Written

**or Written Question:**

**Senator McKenzie asked:**

At Estimates, Ms Cameron confirmed that the department is specifically developing those generic research skills around developing data and collecting, understanding and analysing data around environmental, social and economic criteria in a regional context:

1. If this is possible for the regions chosen under the Regional Sustainability Planning program, is it not possible for the regions of the Murray Darling Basin?
2. Will all these people be based in Canberra? How will they gain knowledge of the areas they're drafting plans for? What sort of consultation will be involved?
3. Do they look at sustainability holistically or just environmental? Please outline the methodology underlying the definition of sustainability with regard to the development of regional sustainability plans.
4. How often is this focus reviewed?
5. What is the definition of regional used by the department in developing locations for these?
6. Does this area of the department share its expertise with other areas of the department? Across government?

**Answer:**

1. The Sustainable Regional Development program will result in the development of Regional Sustainability Plans in regional and coastal growth centres where there is substantial urban and industrial development. The approach is based on land use planning and analysis. New regions are nominated by State governments and assessment is undertaken by agreement.
2. Whilst most commonwealth officers are based in Canberra, some are based in regions working closely with State Government partners (for example, NSW and Queensland). Regional Sustainability Plans will be drafted by State governments, in partnership with Local governments and the Australian Government. As plans relate to State and Local planning matters and involve regional communities, consultation will be led by Local and State governments.

- 3-4. The intention of the Sustainable Regional Development program is to consider and address issues relating to the long-term sustainability of environmental, social and economic values in priority high growth regions. Strategic assessments under national environment law (the *Environment Protection and Biodiversity Conservation Act 1999*) then consider the impact on matters of National Environmental Significance as a result of implementation of the Regional Sustainability Plan. The Sustainable Regional Development program is a measure proposed under the *Australian Government's Sustainable Australia – Sustainable Communities: A Sustainable Population Strategy for Australia*. This strategy outlines the Australian Government's framework for a sustainable Australia, which aims to ensure that future population change is compatible with the economic, environmental and social wellbeing of Australia and defines achieving sustainability as maintaining and improving the wellbeing and opportunities of current and future generations. The program was funded as a four year measure in the 2011-12 budget under *A Sustainable Population Strategy for Australia*.
5. The specific region is defined on a case by case basis taking into account biogeographical, jurisdictional and planning characteristics.
6. Yes.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: EACD **Question No:** 133

**Topic:** Tiwi Island Land Remediation

**Proof Hansard Page and Date** Written

**or Written Question:**

**Senator Macdonald asked:**

The Government has announced \$1m of funding for remediation of land affected by the Tiwi islands Plantation project. The implementation of the Rehabilitation Management Plan is being guaranteed by a call for a \$1m bank guarantee from the original project proponent:

1. Is the Government committed to the remediation?
2. Is it usual for the Government to seek a bank guarantee to secure funding for a land remediation project?
3. What other projects for and remediation and regional development are also reliant upon this type of financial management to secure appropriate funding?

**Answer:**

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) is committed to remediating an incursion of plantation areas into mandated buffers set up to protect important rainforests and wetland environments.
2. No. The bank guarantee was added as a condition in 2008 by the then Minister, in response to a breach of the EPBC Act conditions, to ensure that remediation was carried out. The breach related to the incursion of plantation areas into buffer areas.
3. To date there are two other projects that have required lodgement of a bank guarantee to ensure compliance with conditions. The projects are a phosphate mine on Christmas Island and an iron ore mine in Koolyanobbing, Western Australia. To date these guarantees have not been called upon as conditions have been complied with.

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: RRT **Question 134**  
**No:**

**Topic:** Draft COAG Communique –  
Regulatory Reform

**Proof Hansard Page and Date** 7-8

**or Written Question:** (22/5/12)

**Senator Waters asked:**

(Page 7)

Senator WATERS: Did you brief the minister on the draft COAG communique, rather than the SEWPaC communique?

Dr Grimes: Yes, with both communiques we provided oral advice to the minister and his office prior to both meetings.

Senator WATERS: Did that include canvassing the potential risks of fast-tracking bilateral approvals?

Dr Grimes: When it goes to the question of policy advice that we provided to the government, I do not feel that I am able to go through all of the policy matters that we may have provided advice on.

...

(Page 8)

Dr Grimes: It may be best if I take questions of that sort on notice and reflect on what material may be able to be provided to you.

**Answer:**

Oral advice was provided in relation to the preliminary draft Council of Australian Governments communique including in relation to proposed timeframes in the preliminary draft.

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: RRT **Question No:** 135

**Topic:** Regulatory Reform – Inquiries into costs to proponents for complying with the EPBC Act

**Proof Hansard Page and Date** 37

**or Written Question:** (23/5/12)

**Senator Waters asked:**

Senator WATERS: ...I note you are saying it is not the department's role to establish the cost or the time delays to proponents for complying with the EPBC Act. Can I infer from that that the department has not commissioned any independent assessment of that either? Are you aware of whether any other departments have looked at that question? Given that it is a matter that sits within your jurisdiction, I would hope they would let you know if they were doing that.

Dr Dripps: There is a range of different reviews undertaken by government into the economic efficiency of the economy and the impacts of regulatory burden on industry. I would have to take it on notice to provide you with a list of the recent inquiries.

Senator WATERS: Do they pertain to this particular point?

Dr Dripps: They can. There are inquiries undertaken by the Productivity Commission, for example, into things such as this. I would like to take on notice to provide you with a recent list of relevant inquiries.

Senator WATERS: Thanks. I would be really interested. I would love to know that there is an evidence base other than just what proponents claim, so that is good. Thank you.

**Answer:**

- The Department of Sustainability, Environment, Water, Population and Communities has commissioned two independent economic analysis reports in recent times of relevance that include analysis of the time delays and associated costs for environmental approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act).
- The reports are titled:
  - Cost benefit analysis of EPBC strategic assessments, Access Economics, 7 March 2011.
  - Cost Benefit Analysis – Reforms to Environmental Impact Assessments under the *Environment Protection and Biodiversity Conservation Act 1999*, Deloitte, 20 April 2011.

- Both cost benefit analysis reports have been made publicly available on the Department of Finance and Deregulation Website:

<http://ris.finance.gov.au/2011/09/12/response-to-the-review-of-the-epbc-act-%E2%80%93-regulation-impact-statement-%E2%80%93-department-of-sustainability-environment-water-population-and-communities/>

- The Department of Sustainability, Environment, Water, Population and Communities is also aware that the Productivity Commission has released reports in recent years that include analysis of the costs associated with meeting the requirements of regulation, which include discussion on the EPBC Act:

- Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector, April 2009. [http://www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0011/87923/upstream-petroleum.pdf](http://www.pc.gov.au/__data/assets/pdf_file/0011/87923/upstream-petroleum.pdf).
- Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments, May 2011. <http://www.pc.gov.au/projects/study/regulationbenchmarking/planning/report>.

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: RRT **Question No:** 136

**Topic:** Regulatory Reform – Notification to the department of the Business Advisory Forum’s and COAG’s Communiqués

**Proof Hansard Page and Date** 37-38

**or Written Question:** (23/5/12)

**Senator Waters asked:**

(Page 37)

Senator WATERS: ...I want to move now to the COAG communiqué of 13 April and the business advisory forum’s communiqué of the day before. When was the department first advised about the business advisory forum’s planned communiqué and the COAG communiqué of the following day?

Dr Grimes: Senator, I am going on recollection here, but I think matters around the communiqué were considered a couple of days before the business advisory forum meeting. I would have to check to be very clear on precise timings, but it was a couple of days before.

...

Senator WATERS: Was the department consulted on those draft communiqués?

Dr Grimes: As I indicated, yes. Yesterday, yes, there were some discussions with us around the communiqué. We did not have primary carriage for the communiqué, as you would understand.

Senator WATERS: Did you make any suggestions for alterations?

Dr Grimes: We made some suggestions to the Department of the Prime Minister and Cabinet.

Senator WATERS: Were they adopted?

...

(Page 38)

Senator Conroy: It falls within asking the officer to comment on the government’s final position. If you would like to put that in writing, I can take that on notice and see if there is anything further we can progress for you.

...

Senator WATERS: Well, can you answer the question, then, please?

Senator Conroy: What I have said is I will take it on notice.

**Answer:**

Australian Government input into the development of the April communiques referred above was led by the Department of the Prime Minister and Cabinet. Input from the Department of Sustainability, Environment, Water, Population and Communities contributed to the development of the Commonwealth's input.

**Senate Standing Committee on Environment and Communications  
Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: RRT **Question No:** 137

**Topic:** Regulatory Reform Taskforce staffing

**Proof Hansard Page and Date** 38

**or Written Question:** (23/5/12)

**Senator Waters asked:**

Senator WATERS: ...What resourcing pressures are there for the department with the fast-tracking of approvals bilaterals, as agreed by COAG? How many folk have you got working on this? Are there in fact enough people to support the creation of the federal standards and then to establish those approvals bilaterals by March next year?

...

Mr Burnett: There are seven officers, Senator, although not all of them are full time, so it is probably about five on a full-time equivalent basis.

Dr Dripps: And then we will be supporting the work of those negotiations back in the department. We have obviously technical expertise in terms of the way in which bilateral agreements work. So we will be providing whatever support is necessary to ensure that those standards can be developed appropriately.

Senator WATERS: Can you take on notice from whence those seven officers are being drawn and what program will now be seven people short?

**Answer:**

Seven employees from the Department of Sustainability, Environment, Water, Population and Communities are working within a Joint Team on Environment Regulation Reform (the Joint Team), led by the Department of the Prime Minister and Cabinet. Some positions have been backfilled and other areas of work have been reprioritised. The below table indicates the proportion of time that each staff member is working within the Joint Team and their area of employment within the Department of Sustainability, Environment, Water, Population and Communities prior to the 13 April 2012 Council of Australian Governments decision.

<b>Average Staffing Level</b>	<b>Proportion of time</b>	<b>Area of employment prior to COAG decision</b>
SES Band 2	50%	Regulatory Reform
SES Band 1	100%	Environment Assessment and Compliance Division
EL2	80%	Regulatory Reform
EL1	100%	Regulatory Reform
EL1	20%	Regulatory Reform
APS 6	100%	Regulatory Reform
APS 5	100%	Regulatory Reform

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: SSD **Question 138**  
**No:**

**Topic:** Objectives of the *Environment Protection (Alligator Rivers Region) Act 1978*

**Proof Hansard Page and Date** 16

**or Written Question:** (23/5/12)

**Senator Cameron asked:**

CHAIR: So you have, basically, obligations to make sure that anything that happens in the mines does not have a spillover effect on the World Heritage areas. Would that be, crudely, how it works?

Mr Hughes: Yes. That is correct.

CHAIR: So there are specific obligations on mines outside the heritage area to comply with certain legislative requirements?

Dr Dripps: That is right, Senator. We can undertake to provide a summary of the objectives of the Alligator Rivers act on notice.

**Answer:**

The Commonwealth *Environment Protection (Alligator Rivers Region) Act 1978* (the Act) established the position of Supervising Scientist for the Alligator Rivers Region and two advisory committees: the Alligator Rivers Region Advisory Committee and the Alligator Rivers Region Technical Committee. The Act also established the Alligator Rivers Region Research Institute, now known as the Environmental Research Institute of the Supervising Scientist.

The Supervising Scientist is responsible for ensuring that the environment of the Alligator Rivers Region (including World Heritage Areas) remains protected from uranium mining related impacts and that the environmental regulation of uranium mining activities in the Region is based on best available science.

Day to day responsibility for the regulation of uranium mining and exploration in the Alligator Rivers Region rests with the Northern Territory Department of Resources.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: SSD **Question No:** 139

**Topic:** Retention ponds – permeability lining

**Proof Hansard Page and Date** 18-19

**or Written Question:** (23/5/12)

**Senator Ludlam asked:**

(Page 18)

Senator LUDLAM:...I have questions about the retention ponds that the company is putting on site. Can you confirm for us whether or not ERA are using four-millimetre low permeability lining on those retention ponds?

Mr Hughes: Sorry, I would have to take that on notice.

(Page 19)

Senator LUDLAM: ...Could you undertake for us on notice to investigate whether they are using the best technology that exists or whether there is some cost-cutting going on?

**Answer:**

Energy Resources of Australia Limited has submitted an application for regulatory approval for the first of two proposed retention ponds at Ranger. The application states that the retention pond will be constructed using two 2 millimetre thick high density polyethylene, low permeability liners separated by a leak detection membrane, supported by a compacted clay base. It is anticipated that the other retention pond will be constructed using the same design parameters.

The Supervising Scientist believes these proposed design parameters are consistent with best practicable technology.

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Sustainability, Environment, Water, Population and Communities portfolio**  
Budget Estimates, May 2012

**Program: Division or Agency:** 5.2: SSD **Question 140**  
**No:**

**Topic:** Advice to ERA regarding the approvals needed to progress from exploration to mining

**Proof Hansard Page and Date** 21

**or Written Question:** (23/5/12)

**Senator Ludlam asked:**

Senator LUDLAM: Is it your understanding—feel free to dispute this if I am wrong—that because this is an exploration shaft, if the company encounters mineralised ore on their way down the tunnel, which is quite extensive, they would not be licensed or approved to mill any mineralised ore that comes out of there?

Mr Hughes: I do not believe they would be licensed to process that ore, no.

Senator LUDLAM: Me either. Could you just confirm that for us. You sound like you are not quite locked in on that one. You can phone a friend if you want, but I am interested in getting confirmation of what will happen—whether their licence conditions for this exploration activity, as the company has put it, would preclude milling anything that comes out of the tunnel.

Dr Dripps: We will have to take that question on notice, Senator.

**Answer:**

Under the current approval, any mineralised ore intercepted and extracted by Energy Resources of Australia Limited as part of the Ranger 3 Deeps exploration project is not able to be milled. This ore would need to be separately stockpiled on site and returned to the decline once the exploration project has concluded.