

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division:	5.2: EACD	Question No:	084
Topic:	Detailed graph related to coal seam gas requirements		
Proof Hansard Page and Date	26/27		
or Written Question:	(29/05/13)		

Senator Cameron asked:

CHAIR: Can I then propose that what you do is take this on notice and provide us a graph or a detailed plan on how this works. In a graphical way would be good, so we can have a quick look at it.

Senator HEFFERNAN: And table what he is reading from.

CHAIR: Yes, and table what you are reading from. I would rather get a schematic that we can look at, if that is possible. Maybe we will stop there. We will deal with the science and then we will go to Senator Heffernan.

Answer:

The following provides an overview of the requirements of coal seam gas water monitoring and management plans that must be submitted to the Minister under the conditions of approval. Full details of the requirements of the stage 1 and stage 2 water plans are in the approval instruments available on the department's website at www.environment.gov.au/epbc/notices/gladstone.html

STAGE 1 Water Monitoring and Management Plan

Groundwater monitoring and management measures, including but not limited to:

- Groundwater drawdown limits for each targeted aquifer
- A schedule for aquifer connectivity studies and monitoring of relevant aquifers
- A schedule for field piloting of aquifer reinjection of treated coal seam gas (CSG) water
- Early warning indicators of where drawdown thresholds are being approached.

Information relating to hydraulic fracturing, including but not limited to:

- Estimated number and distribution of boreholes to be fraced
- Details of constituent components of fracking agents and any other reinjected fluids, their toxicity as individual chemicals, and total effluent toxicity and ecotoxicity.

Surface water quality and quantity monitoring plan, including but not limited to:

- Environmental values to be monitored

- Number and location of monitoring sites upstream and downstream of proposed CSG water discharge points, and frequency of monitoring
- Baseline data for each monitoring site
- Methods to analyse data, determine trends and indicate potential impacts
- Threshold values at which management actions will be initiated to protect Matters of National Environmental Significance
- Water storage locations and volumes, treatment methods and standards, and disposal options
- Brine storage locations and volumes, and brine crystal waste management
- Emergency water discharges.

Response actions, including but not limited to:

- Mechanisms to avoid, minimise and manage risks of adverse impacts, and response actions and timeframes, if surface water quality thresholds are exceeded or there are unforeseen emergency discharges.

STAGE 2 Water Monitoring and Management Plan

Must include all items required by Stage 1, and in addition:

- Ongoing CSG water treatment program for groundwater repressurisation options
- Groundwater quality and quantity monitoring plan to monitor the aquifers underlying the project area
- Baseline data for each monitoring site and approaches to analyse the results
- Groundwater drawdown threshold values and groundwater quality threshold values for each aquifer
- An exceedance response plan to avoid, minimise and manage risks of impacts relating to unforeseen emergency discharges or threshold values being exceeded for surface water quality, aquifer drawdown or groundwater contamination
- A program for groundwater repressurisation options, including using reinjection of treated CSG water.

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Program: Division:	5.2: EACD	Question No:	085
Topic:	Storage facilities		
Proof Hansard Page and Date	27/28		
or Written Question:	(29/05/13)		

Senator Heffernan asked:

Senator HEFFERNAN: Twenty million tonnes for the life of the known tenement. If I were in charge, if I were in charge of the Murray-Darling Basin, I would be saying do not store it in Australia's most productive area, the Murray-Darling Basin. You do not know what they are going to do with it. We do not know.

Mr Gaddes: Would you like me to provide advice, on notice, because I do not have the details of each of the storage facilities to hand—

Senator HEFFERNAN: I do. Never ask a question unless you know the answer.

Mr Gaddes: I can provide some documentation for you.

Answer:

In relation to the three approved coal seam gas projects in Queensland, produced concentrated brine will be stored in approved brine containment ponds prior to disposal. Each company is pursuing different methods of disposing of produced brine and salt.

Significant quantities of salt are not expected to be produced for some years due to the delay between coal seam gas water production, water treatment, brine production and crystallized salt production. Brine ponds are to be designed to have sufficient capacity to manage expected brine volumes until such time as the regulated waste disposal facilities are approved and constructed.

Storage ponds and regulated waste disposal facilities will be located in the coal seam gas fields adjacent to the water treatment facilities for each proponent. Each company's water monitoring and management plan outlines the location of each storage pond and waste disposal facility.

Both Australia Pacific LNG and QGC, previously known as Queensland Gas Company, have approved water monitoring and management plans. It is anticipated that the Santos water monitoring and management plan will be finalised later this year.

Construction and operation of the storage ponds must be undertaken in accordance with the dam guidelines regulated by the Queensland Department of Environment and Heritage Protection. The construction of the regulated waste disposal facilities must also be consistent with the Queensland Government's waste disposal and landfill guidelines and other relevant state requirements.

Further detailed information relating to brine and salt management is available in the approved water monitoring and management plans which the companies are required to publish on their websites.

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Program: Division: 5.2: EACD **Question No:** 086

Topic: Hydraulic fracturing – information provided during the recent committee hearing EPBC Amendment Bill

Proof Hansard Page and Date or Written Question: 37 (29/05/13)

Senator Waters asked:

Senator WATERS: I want to take you also to your bullet points there about information relating to hydraulic fracturing. You have listed two items there which need to be examined in a stage 1 water plan in relation to fracking issues. What is not listed there is the environmental impact of the mobilising of naturally occurring BTEX by the fracking process itself. Evidence was given to this committee in the course of my bill—or it might have been the government's water bill; one of the water bills—which was to the effect that fracking can mobilise naturally occurring BTEX. That is not included on your list here of issues that companies have to address in their plans. Is there an intention to revise this list and add that?

Dr Dripps: We regularly revise these kinds of lists as new information comes to light. I am happy to take on notice what we have done with that particular evidence from the inquiry. I am not personally familiar with exactly what we have done with that.

Answer:

The conditions of approval already address the risks associated with the release of naturally occurring BTEX. Under the approval conditions for the three Queensland coal seam gas projects the proponents are required to establish an extensive groundwater monitoring network to detect changes to groundwater quality and groundwater pressure. The monitoring program requires the establishment of baseline groundwater quality data, spanning three and a half years, for all bores across the network. This includes testing for a range of parameters including BTEX (naturally occurring or otherwise), and will be used to develop groundwater quality trigger levels. Ongoing groundwater quality testing for comparison against baseline data and groundwater quality trigger values will be undertaken at six-monthly intervals at all monitoring bores for the life of the project.

The approval conditions also require the proponents to develop detailed water monitoring and management plans which must include details of constituent components of any hydraulic fracturing agents and any other reinjected fluid(s), and their toxicity as individual substances and as total effluent toxicity and ecotoxicity, based on methods outlined in the National Water Quality Management Strategy.

The proponents have developed several measures to address these conditions, including a comprehensive program for testing the ecotoxicology of fracking fluid and flowback water. The chemical and toxicity analyses undertaken as part of this testing program will inform an understanding of the risks associated with the mobilisation of naturally occurring BTEX, associated toxicity levels and the development of water quality trigger values. The proponents

are required to seek the approval of the Minister prior to the use of new chemicals and if a significant change to effluent toxicity is detected.

Both the Queensland and New South Wales governments have banned the use of BTEX in coal seam gas drilling and fracking activities.

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Program: Division:	5.2: EACD	Question No:	087
Topic:	Legacy Mine Water Program		
Proof Hansard Page and Date or Written Question:	58 (29/05/13)		

Senator Waters asked:

Senator WATERS: Thank you. Particularly given that that program was extended yesterday, in fact, was the minister or the department consulted by the Queensland government on the extension of that program?

Dr Dripps: Which program is that, Senator?

Senator WATERS: The Legacy Mine Water program.

Dr Dripps: I am not aware of consultation that may have occurred yesterday, Senator. We can take that question on notice.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities has no record of being consulted by the Queensland government on the extension of the Legacy Mine Water program.

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Program: Division:	5.2: EACD	Question No:	088
Topic:	QGC project – management plans		
Proof Hansard Page and Date or Written Question:	73 (29/05/13)		

Senator Waters asked:

Dr Dripps: Senator, as we indicated earlier, it is not uncommon to approve projects with subsequent management plans that are required to be approved before various pieces of work are undertaken. So our role is to identify the environmental outcomes that need to be achieved by these projects and then to ensure that an appropriate framework of environmental management is in place before the work substantively commences.

Senator WATERS: On that point, I am interested in whether the department has either done any work itself or sought any external advice on whether adaptive management, which is clearly what is being employed here, is or is not consistent with the precautionary principle.

Dr Dripps: I think we would have to take that question on notice. I do not have the policy officers immediately available to answer that question.

Answer:

The Minister must take account of the precautionary principle in making a decision whether to approve the taking of an action in accordance with section 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). If the Minister approves an action he may impose conditions on the approval in accordance with section 136 of the EPBC Act.

In *Lawyers for Forests Inc. v Minister for the Environment Heritage and the Arts [2009] FCAFC 114*, the Federal Court considered whether or not an Environmental Impact Management Plan (an adaptive management plan) could be imposed on an approval. The Federal Court determined that adaptive management plans are consistent with the EPBC Act and as such may be imposed, as a valid condition of approval, by the Minister.

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Program: Division: 5.2: EACD **Question No:** 089
Topic: Gladstone Proposal – modelling used
Proof Hansard Page and Date 73
or Written Question: (29/05/13)

Senator Waters asked:

Senator WATERS: Thank you. I want to move now to the reef. We heard from GBRMPA yesterday that they are now conducting their own modelling of dredging and dump spoil movement and they are now looking at deep ocean currents and 3D modelling, which is a welcome development. They are doing that for the Abbot Point proposal. My question goes to whether the Gladstone proposal was subject to modelling that looked at both 3D and deep ocean current effects on dredging and dumping.

Dr Dripps: Senator, as Dr Reichelt advised yesterday, there is a project that is funded out of the regional sustainability program that GBRMPA is undertaking on our behalf to do further monitoring. We would have to take on notice and check the documents surrounding the approvals of dredging in Gladstone Harbour to be able to answer the question around precisely which modelling was used to inform that decision.

Senator WATERS: Dr Dripps, is there anyone here that would be able to answer that? Given it has been subject to such concern by UNESCO, I am sure the department is able to shed some light rather than just take it on notice.

Dr Dripps: No. I am sorry, Senator. That decision was taken in 2010, I believe, so we do not have documentation on that decision with us here. We can call back to the branch and give it a go.

Answer:

The Port of Gladstone Western Basin Strategic Dredging and Disposal Project was assessed at the level of an environmental impact statement (EIS) and approved with conditions in 2010 under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). 2D dredge plume modelling was done as part of the Western Basin Dredging and Disposal Project EIS. The Department of Sustainability, Environment, Water, Population and Communities (the department) commissioned an independent expert review of the hydrodynamic modelling to inform its assessment of the proposal. The independent review agreed with the position stated in the Gladstone Port Authority's Supplementary Information Document that 3D modelling was not required to characterise dredge plume dispersal in Port Curtis.

Additional 3D modelling was, however, undertaken at the request of the department to further inform the EPBC Act assessment of the impacts of dredge material placement at the East Banks Sea Disposal Site for the Port of Gladstone Western Basin Strategic Dredging and Disposal Project.

The 3D modelling undertaken for the *'Improved dredge material management for the Great Barrier Reef Region'* research project commissioned jointly by the Great Barrier Reef Marine Park Authority and the department examines only the impacts of dredge material placement at offshore disposal sites, and not the impacts of dredging itself. In this research project, modelling for the Port of Gladstone considered the effects of placing material at three hypothetical sites offshore of Facing and Curtis Islands within the Great Barrier Reef Marine Park. The modelling did not analyse the effects of dredge material placement at the existing East Banks Sea Disposal Site, which is located outside the marine park.

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Program: Division: 5.2: EACD **Question No:** 090

Topic: Marine strategic assessment –
Reports on the impact of dredging
and dumping

Proof Hansard Page and Date 75

or Written Question: (29/05/13)

Senator Waters asked:

Senator WATERS: Earlier, Ms Colreavy, you said it had been given to parties. I was only aware that it had been given to the Queensland Ports Association for consultation. What other parties have received a copy of those draft reports?

Ms Colreavy: I think it was Queensland Ports Association and NQBP.

Senator WATERS: Well, they are the proponent.

Ms Colreavy: They are party to it. I cannot remember. I will have to get back to you, I think.

Senator WATERS: If you could, because I am concerned that it has been a highly selective consultation so far. I am interested in who has had the chance to eyeball it.

Ms Colreavy: Bear in mind, Senator, that these reports have been formulated for the purpose of being put out for public consultation. There is room for further comment and for further adjustment. So all of these reports are— es have received a copy of those draft reports?

Answer:

In addition to the Great Barrier Reef Marine Park Authority and the Department of Sustainability, Environment, Water, Population and Communities, who have each received all of the draft reports prepared for the *'Improved dredge material management for the Great Barrier Reef Region'* project, the following parties were provided with some of the drafts for comment:

- Queensland Ports Association
- Queensland Department of Transport and Main Roads
- Office of the Coordinator General, Queensland Department of State Development, Infrastructure and Planning
- Maritime Safety Queensland
- Queensland Department of Agriculture, Fisheries and Forestry
- Queensland Department of Science, Information Technology, Innovation and the Arts
- Queensland Department of Environment and Heritage Protection
- Professor Eric Wolanski, Adjunct Professor, School of Marine and Tropical Biology, James Cook University

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Program: Division:	5.2: EACD	Question No:	091
Topic:	EPBC Act – Self assessment guidance		
Proof Hansard Page and Date	78		
or Written Question:	(29/05/13)		

Senator Macdonald asked:

Mr Gaddes: That letter most likely came from the compliance and enforcement branch. So the wording of the letter is normally that if you have any uncertainty, you should refer the matter to the department for assessment and decision. If you do not refer it, then you could be subject to substantial penalties. So generally we say to people, 'Look, here's the way you can self-assess whether or not you need to refer it to the department for approval. If you decide after that that you do not want to refer it, then you could be subject to penalties.' So we provide them with advice and always say, 'If you are in any doubt, you should refer it to the department for approval.' So it is not really leaving them—

Senator IAN MACDONALD: Thanks. I think they did ask and they were told, 'You self-assess.' Anyhow, we will work this out. I would be interested in getting the advice you would give on the removal of bats and how you would self-assess.

Answer:

Under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act), an action requires approval from the federal environment Minister (the Minister) if the action has, will have, or is likely to have, a significant impact on a matter of national environmental significance, including nationally threatened flying-fox species.

To assist proponents in determining whether their action is likely to have a significant impact on a matter of national environmental significance, the department has developed and published on its website, '*Significant Impact Guidelines 1.1*' (the Guidelines).

The Guidelines outline a 'self-assessment' process including detailed criteria, to assist persons in deciding whether or not referral may be required. If, after considering all the available information, the question of significance remains unclear, the proponent may choose to refer their action to the department for a decision under the Act.

In relation to listed flying foxes, the department has established a website to assist proponents in making informed decisions on how to manage flying foxes in accordance with national environmental law. See <http://www.environment.gov.au/biodiversity/threatened/species/flying-foxes.html>

The same website gives examples of activities that could have a significant impact on flying foxes, and outlines approaches that have been taken to address concerns about flying foxes in a way that does not have a significant impact on the species.

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Program: Division:	5.2: EACD	Question No:	092
Topic:	Wiluna uranium project – mine closure plan		
Proof Hansard Page and Date or Written Question:	79 (29/05/13)		

Senator Ludlam asked:

Senator LUDLAM: But how much work around mine closure had been assessed by the minister? Presumably, something must have been done or he would not have had the confidence to give this thing the tick, even a conditional tick?

Ms Jones: Through the assessment process there were assessment documentation in draft and final form. Supplementary information was sought by the minister from the proponent on issues that cut across this matter. To give a succinct response, I would probably have to take that on notice and come back to you, Senator.

Senator LUDLAM: Maybe if you could, yes. I am interested in the degree to which the approval conditions side is open-ended. Does it have any lapse date at all, or is this an approval in eternity? If the company comes back in 20 years, will it be live, or does it have a lapse date?

Answer:

The proposed action was assessed by the Western Australian Environment Protection Authority under the bilateral agreement between the Commonwealth and Western Australian Government. The State assessment report addressed the issue of mine closure, including assessment of an Environmental Management Strategy for Mine Closure and Rehabilitation provided by the proponent. The Minister considered the State assessment report. The Minister also sought further information from the proponent in relation to the long-term integrity of the tailings storage facility, which was reviewed by the Supervising Scientist Division, Geoscience Australia and the Australian Radiation Protection and Nuclear Safety Agency.

The approval is valid until 31 March 2043. Condition 2 of the approval states that if, at any time after five years from the date of this approval, the person taking the action has not commenced the action, then the person taking the action must not commence the action without the written agreement of the Minister.

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Program: Division or Agency:	5.2: EACD	Question No:	093
Topic:	Best practice standards for storing contaminated materials		
Proof Hansard Page and Date or Written Question:	80 (29/05/13)		

Senator Ludlam asked:

Senator LUDLAM: Let me phrase this in a different way. I want to get down to what standards of best practice actually mean. Otherwise this is not worth the paper it is printed on. Do current standards of best practice mean lining the base of the tailings dam so that water does not simply fall straight through the floor of the facility? Would that be one example of best practice?

Mr Knudson: I would point out that in terms of providing our advice to the minister, we sought a number of external sources of advice, including from Geoscience Australia, the Australian Radiation Protection and Nuclear Safety Association and the Office of the Supervising Scientist. They would be in a far better position to provide the exact details on individual best practice. We would certainly be happy to take this question on notice and come back to you if there are particular areas of what is considered best practice that you would like to have a better understanding of. We could come back on that.

Senator LUDLAM: I suspect that if I chase Geoscience Australia, they will refer me straight back to you as soon as I refer to this project. I am not trying to be cute here. I am also not trying to cloud the issue. It is a very specific issue. When you talk about best practice—I am actually more interested in your view; you are doing the assessment—does that mean contaminated water laced with radionuclides and other chemical contaminants should be allowed to fall and seep through the floor of the dam, as is current practice at other uranium mines in Australia or not? It just means lining it. That is the question.

Ms Jones: Again, we would like to take that on notice because I am confident that this issue was looked at as part of the assessment process. I would like the opportunity to review that aspect of the assessment and come back to you.

Senator LUDLAM: I will ask you to take this on notice and then we will move on. If you want to refer back to Geoscience Australia, that is fine, I guess. What is the department's understanding of what current standards are best practice for tailings storage for this sort of contaminated material? What would it actually look like?

Answer:

Best practice for tailings storage is not static but evolves with new technology and knowledge over time. An example of current standards of best practice tailings storage would be that outlined in the Department of Resources, Energy and Tourism's *Leading Practice Sustainable Development Program for the Mining Industry* series, which incorporates a handbook on Tailings Management (February 2007). The handbook notes that "In cases where mining is

advanced as a series of pits, the progressive filling of mined-out pits with mining wastes should be favourably considered.” Toro Energy is proposing in-pit tailings disposal at Wiluna. Advice provided by the Supervising Scientist Division, Geoscience Australia and the Australian Radiation Protection and Nuclear Safety Agency on the issue of in-pit tailings disposal confirmed that in-pit disposal of tailings represented best practice for the Wiluna project.

Condition 18 of the Wiluna Uranium Mine approval (EPBC 2009/5174) requires, among other things, that the tailings storage facility must include, as a minimum, a compacted clay liner of at least 300 mm thickness with permeability of less than 1×10^{-9} metres/second. Modelling undertaken by the proponent, and reviewed by Commonwealth expert agencies, shows that after 10,000 years, uranium concentration in groundwater 100 metres from the tailings storage facility will be within background levels.

In addition, the approval conditions require the design of the tailings storage facility cover be reviewed and endorsed by an independent scientific expert to ensure it meets current best practice standards.

Condition 3 of the Wiluna Uranium Mine approval (EPBC 2009/5174) requires the submission of an Environment Management Plan for the Minister’s approval prior to commencement. The Environment Management Plan requires, among other things, details of a monitoring program to demonstrate compliance with the environmental outcomes specified in relation to radiation, groundwater and surface water. The Environment Management Plan must be reviewed at least every three years (Condition 22) and show, among other things, how the Environment Management Plan meets world’s best practice or how the plan has been amended to meet world’s best practice.

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Program: Division: 5.2: EACD **Question No:** 094

Topic: Tailings Dam – Assessment process
– conditions of bond

Proof Hansard Page and Date 81
or Written Question: (29/05/13)

Senator Heffernan asked:

Ms Jones: The minister has required a capacity to apply a bond over and above what the Western Australian government will require, albeit that is yet to be—

Senator HEFFERNAN: And when is the bond retrievable?

Ms Jones: When is the bond retrievable? I am unable to answer that, Senator, because—

Senator HEFFERNAN: You might take that on notice.

Answer:

As a bond arrangement has not yet been entered into between Toro Energy and the Western Australian Government or the Australian Government, the nature of the arrangement, including the time at which the bond is retrievable, cannot be answered at this time.

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Program: Division: 5.2: EACD **Question No:** 095

Topic: GBRMPA – Abbot Point draft reports

Proof Hansard Page and Date 30

or Written Question: (28/05/13)

Senator Waters asked:

Senator WATERS: Dr Dripps, is there an intention to release those reports before the decision is made?

Dr Dripps: I have not got the information to hand, Senator. The reports are being prepared for a couple of parallel processes, that you are aware of, that are occurring in Queensland. I can take that on notice and possibly cover it off with the officers who are here tomorrow afternoon and who are handling that assessment.

Answer:

A project was jointly commissioned by the Department of Sustainability, Environment, Water, Population and Communities and the Great Barrier Reef Marine Park Authority titled '*Improved dredge material management for the Great Barrier Reef Region*'. This work was undertaken as part of a suite of projects to inform the comprehensive strategic assessment of the Great Barrier Reef World Heritage Area and adjacent coastal zone. The final reports are expected to be completed by the end of July 2013. Draft reports developed during the project have been made available to the department for review and that work, including relevant dredge material dispersion modelling, will inform the department's advice to the Minister on the Abbot Point capital dredging proposal.

The final dredge material management reports are intended to be released as soon as practicable once finalised.

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Program: Division: 5.2: EACD **Question No:** 096
Topic: Abbot Point Fisheries
Proof Hansard Page and Date Written
or Written Question:

Senator Macdonald asked:

What action has been taken by the Department to act upon the concerns raised by the Seafood Industry Association regarding sustainability at Abbot Point?

- a. Is the Minister and the Department working with ALL stakeholders to achieve a sustainable result?
- b. Have the Minister and the Department sought input from interests in the Infrastructure/Transport and Minerals/Resources spaces to develop a sustainable plan for the region?

Answer:

- a. The Minister and Department of Sustainability, Environment, Water, Population and Communities (the department) consider submissions made by stakeholders as part of the *Environment Protection and Biodiversity Conservation Act 1999* assessment process for all projects.

Regarding the Abbot Point Capital Dredging project specifically, North Queensland Bulk Ports Corporation Limited (the port) released a draft Public Environment Report on the proposal for public comment from 4 January 2013 to 15 February 2013. The Seafood Industry Association and others made submissions during that process. The port has informed the department that meetings were subsequently held with representatives from Bowen's commercial and recreational fishing industries, and it commissioned a report to further assess potential impacts on fisheries. The port has also stated that it is investigating other potential offshore sites for the disposal of dredge material.

The Australian and Queensland governments have committed to develop a long term plan for the sustainable development of the Great Barrier Reef World Heritage Area. This plan will address key locations such as Abbot Point.

- b. Comments are sought from relevant Commonwealth and State Ministers during the assessment process of the various proposals considered under the *Environment Protection and Biodiversity Conservation Act 1999*.

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Program: Division: 5.2: EACD **Question No:** 097
Topic: Tarkine – Emergency National
Heritage Listing – Tasmanian Devils
Proof Hansard Page and Date Written
or Written Question:

Senator Milne asked:

Minister Burke allowed the Emergency National Heritage Listing of the Tarkine to lapse in December 2010 resulting in the ability for mining exploration in the Tarkine to proceed without requiring EPBCA permits.

Since this time a legal case has been brought forward by a community campaign group Save The Tarkine (STT, formerly Tarkine National Coalition) questioning the Minister approving a mine that he acknowledged would have a negative effect on the endangered Tasmanian Devil, and has attempted to offset the impact by applying a financial penalty for every devil killed above 2 within a one year period. This is contrary to the EPBC Act, and Save the Tarkine is challenging that in the Federal Court.

Since the beginning of this case, the plaintiff company Shree Minerals has broken undertakings given to the Federal Court that they would not commence works on the mine while the case is in front of the court. Shree Minerals are now under a court imposed injunction on any further works on the site.

In approving mining operations it is admitted there will be deaths as a direct result of mining development, traffic and operations of the last population of Tasmanian Devils that are currently free of the fatal Devil Facial Tumor. What level of consideration was given to the endangered status of the Tasmanian Devil, and the impact on their chances of survival in the wild by not providing protection to the habitat of this last disease free population?

Answer:

The Senator's question canvasses issues which, as acknowledged, are the subject of Federal Court proceedings listed for hearing on 1 July 2013. In such circumstances, the Department of Sustainability, Environment, Water, Population and Communities considers that it would be inappropriate to provide further comment.

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Program: Division: 5.2: EACD **Question No:** 098
Topic: EPBC Regulatory matters
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

There have been reports of a major oil spill at Santos Cooper Basin project in south western Queensland. What if any steps has the Department taken to investigate this issue and its possible impacts on EPBC protected matters?

Answer:

The Department of Sustainability, Environment, Water, Population and Communities (the department) compliance section became aware of the incident on 21 May 2013.

The department has since been advised by Santos that all spilt oil has been removed and the site is currently undergoing remediation works. Santos has also advised that there have been no impacts on ground water or other protected matters.

Santos has engaged an independent environmental consultant to undertake an assessment into the impacts of the spill. Following completion of the independent assessment, the department will assess whether the action has had a significant impact on matters of national environmental significance.

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Program: Division: 5.2: EACD **Question No:** 099
Topic: Whitehaven Coal
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

Given that the investigation has gone through the preliminary stage and determined that there is a case to answer, what effect does this have on Whitehaven's approval, and their ability to progress their project?

- a. Will this investigation also include an independent review of Boggabri Coal's offsets?
- b. If the Department finds that EPBCA approval was given on the basis of false and misleading information, would that enable the approval to be revoked?

Answer:

Compliance investigations being undertaken by the Department of Sustainability, Environment, Water, Population and Communities (the department) in relation to allegations surrounding the approved proposal do not affect post approval work being undertaken for this project.

- a. The department is unable to comment on a compliance investigation that is currently being undertaken.
- b. The department is unable to comment on the undetermined outcomes of a current investigation.

Under Section 145 of the *Environment Protection and Biodiversity Conservation Act 1999*, the Minister may revoke an approval if the action will have a significant impact that was not identified in assessing the action on a matter protected by a provision of Part 3 for which the approval has effect.

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 100
Topic: Whitehaven Coal
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

Whitehaven has lodged a modification application for the Maules Creek Coal Project with the NSW Department of Planning, wherein they say that the modification does not require EPBCA referral because the affected vegetation is not EEC grasslands. Does this not cast doubt on the company's claims that surrounding properties are all EEC woodlands and grasslands?

- a. Will there be an independent review to determine whether the modification does in fact require an EPBCA referral?
- b. If the independent assessment of the surface and groundwater assessment finds that the impacts on protected matters are too significant, what status will the conditional approval have?

Answer:

- a. Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), any entity proposing to take an action is required to consider whether there is likely to be a significant impact on matters of national environmental significance from a proposed action. If there is a likelihood of a significant impact the action is required to be referred for consideration by the Commonwealth. The Department of Sustainability, Environment, Water, Population and Communities (the department) investigates all compliance matters referred to it, including potential instances where actions that are likely to cause a significant impact on matters of national environmental significance have not been referred.
- b. Following review by the department, the surface and groundwater plans have now been approved by the Minister for the Environment, Heritage and Water.

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 101
Topic: Whitehaven Coal
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

The NSW Department of Planning has confirmed that Whitehaven have requirements and further work to complete that will mean that they cannot clear any forest for two years. Nevertheless, the company is repeatedly telling the stockmarket that they will have the first shipment of coal by mid-2014. Is the Department of SEWPAC aware of this, and if so, will they refer this issue to the Australian Securities and Investments Commission for investigation?

Answer:

The Department of Sustainability, Environment, Water, Population and Communities is not aware of any advice provided by Whitehaven Pty Ltd to the stockmarket.

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 102
Topic: Fitzroy Delta Project
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

Re the Fitzroy terminal project (EPBC /6069), it's clear from materials that have been released under FOI that the Department received advice from GBRMPA on 31 August 2011 stating that their preliminary risk assessment of this project identified seven risks associated with this project that they determined would have "extreme" consequences for the GBR Marine Park and the GBR WHA. Yet on 5 September 2011, the Department did not make a decision that the project was "clearly unacceptable", but rather allowed the project assessment to continue. Why didn't the delegate determine this project was clearly unacceptable?

- a. Did the Department brief the Minister or his office on this controlled action decision before it was made?
- b. What guidance is there for either the Minister or delegates as to when a referral should be deemed clearly acceptable? Please provide copies of all relevant guidance materials.

Answer:

- a. The Department of Sustainability, Environment, Water, Population and Communities did not submit a brief on the proposal to the Minister or his office, prior to the controlled action decision being made.
- b. Policy guidance on when an action may be considered clearly unacceptable can be found at section 2F of the *Environment Protection and Biodiversity Conservation Act 1999*:
Environment Assessment Manual at:
<http://www.environment.gov.au/epbc/publications/environment-assessment-manual.html>

The Environment Assessment Manual states that following principles apply to the decision making process:

"The test for a decision under section 74B is 'would be' unacceptable rather than 'is likely' to be unacceptable. A high degree of certainty is needed before taking this approach.

Unacceptable proposals will generally have a serious or irreversible impact on a protected matter that cannot be mitigated or adequately compensated."

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 103

Topic: IESC

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

Please advise what the role of the IESC is in the EPBC assessment process, in terms of pre and post approval periods.

Answer:

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) provides scientific advice on coal seam gas and large coal mining proposals undergoing assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and associated impacts on Australia's water resources. The IESC does not provide advice on approved projects.

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 104
Topic: CSG Expert Panel
Proof Hansard Page and Date or Written Question: Written

Senator Waters asked:

Please confirm that IESC does not as a matter of course advise on water management and monitoring plans prepared by proponents as a result of conditional approvals?

- a. Is there a timeframe in which a conditional approval will lapse if a proponent is not able to secure the Minister's approvals for management plans required under the conditional approval?
- b. In any conditional approvals granted in the last three years, have there been timeframes within which approval of management plans needs to occur in order to keep the conditional approval on foot, or alive? If so please provide details. If not, please advise why no such condition was imposed.

Answer:

Providing advice on water monitoring and management plans prepared by proponents to meet conditions of approval is not within the IESC's remit. This advice is provided by an expert panel established by the Minister on 22 October 2010 specifically for this purpose, known as the Expert Panel for Major Coal Seam Gas Projects. The Expert Panel for Major Coal Seam Gas Projects has reviewed all coal seam gas water monitoring and management plans submitted in accordance with the requirements of three separate coal seam gas projects in Queensland approved under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in 2010 and 2011.

- a. There is no legislative timeframe under which a conditional approval will lapse if a proponent is not able to secure the Minister's approval for management plans required under the approval. However, the conditions of approval impose specific timeframes within which approved water monitoring and management plans must be implemented. Until the approval and implementation of these plans, proponents are bound by the conservative 'early warning' groundwater drawdown limits imposed by the Minister in February 2011.
- b. Each of the approvals for the three coal seam gas projects in Queensland have specific timeframes within which approved water monitoring and management plans must be implemented. Details can be found in the approval instruments available on the Department of Sustainability, Environment, Water, Population and Communities website at www.environment.gov.au/epbc/notices/gladstone.html

**Senate Standing Committee on Environment and Communications
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Answers to questions on notice
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Budget Estimates, May 2013

Program: Division: 5.2 WHMD **Question No:** 105

Topic: Little red flying fox – protection under state law

Proof Hansard Page and Date 69

or Written Question: (29/05/13)

Senator Williams asked:

Senator WILLIAMS: So under federal law, the little red flying fox is not threatened?

Mr White: That is correct. It is not listed as a threatened species.

Senator WILLIAMS: Is it protected under any state laws?

Mr White: I cannot answer that.

Ms Rankin: We would have to take that on notice, Senator.

Senator WILLIAMS: So if that little red flying fox is not listed as threatened or is not protected, can action be taken to move them on?

Ms Rankin: We can only answer in relation to their protection under Commonwealth environment legislation. As they are not listed under Commonwealth environment legislation, there is nothing under our national environmental law that prevents that. But, as I said, we would have to take on notice what their protection status might be under state legislation.

Answer:

The Little Red Flying-fox is not listed as a threatened species under the *Environment Protection and Biodiversity Conservation Act 1999 (C'wlth)* (EPBC Act). Its statutory threat status under state legislation is:

- Least Concern under the *Nature Conservation Act 1992 (Qld)*, and
- Rare under the *National Parks and Wildlife Act 1972 (SA)*.

Like most native animals, it also gains some level of protection from general state fauna laws. For example in New South Wales, the Little Red Flying-fox is a protected species under the *National Parks and Wildlife Act 1974 (NSW)*. A licence is required for a range of activities involving protected species, including harming them for the purpose of protecting property, commercially trading in them, carrying out research or caring for injured animals.

Senate Standing Committee on Environment and Communications
Legislation Committee
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Budget Estimates, May 2013

Program: Division: 5.2 WHMD **Question No:** 106

Topic: Monitoring flying fox

Proof Hansard Page and Date 69

or Written Question: (29/05/13)

Senator Williams asked:

Senator WILLIAMS: Can you give me any details of those numbers through the different varieties or species of the flying fox? You can take that on notice, can you?

Mr White: Yes. The count is being undertaken certainly in relation to the grey-headed flying fox and the spectacled flying fox. It is a long-term monitoring project, of which the first two counts are available. They are available publicly, so we can supply them on notice.

Answer:

The National Flying-fox Monitoring Program is a collaboration between the Department of Sustainability, Environment, Water, Population and Communities (the department), CSIRO and environment agencies in Queensland, New South Wales, the Australian Capital Territory, Victoria and South Australia. It aims to provide data on flying-fox population size, distribution, trends and seasonal movement. The results of the program will help inform responses to public concerns about the impact of flying-foxes on industry, agriculture and public health, including Hendra outbreaks.

The first national count of the four year program was held in February 2013. Counts were conducted at 401 grey-headed flying-fox and 13 spectacled flying-fox camps over a three day period. The resulting estimate for the total grey-headed flying-fox population was approximately 650,000 animals with roughly 70 per cent of those animals recorded in New South Wales, 23 per cent in Queensland, 6 per cent in Victoria and the remainder in South Australia and the Australian Capital Territory. Approximately 125,000 spectacled flying-foxes were recorded in the Wet Tropics Region of Far North Queensland.

These numbers are indicative only. It is not yet possible to describe the errors associated with the estimate and so it is not possible to say what level of confidence can be assigned to the estimate. Describing the errors is a focus of the ongoing program. It will take a number of years to establish a reliable baseline estimate of the flying fox populations and estimate trends. A second count was held in May 2013. The results from that count will be published on the department's website shortly.

Each quarterly count will be subject to various factors which may influence the results. For example, the February 2013 count took place shortly after severe storms and flooding in northern Queensland and an unprecedented January heat wave in south-eastern Australia, which saw many flying foxes stressed or killed. Comparing current monitoring to previous monitoring efforts is also difficult at this stage due to differences in the time of year in which surveys were conducted, the number and distribution of camps counted and the methods used.

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Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2 WHMD **Question No:** 107

Topic: Funding available in relation to clean up of environment – flying foxes

Proof Hansard Page and Date 70

or Written Question: (29/05/13)

Senator Williams asked:

Senator WILLIAMS: This is my final question. Are there any special funding areas you can point me to as a one-off to help clean up the environmental damage, the mess, they leave behind as far as the destruction of trees et cetera and the general mess? Do you know if there is any federal government support to assist the clean-up?

Dr Dripps: I am not aware of any funding like that. But we can take that question on notice and check for you.

Answer:

There is no specific program directed at this outcome.

The Department of Sustainability, Environment, Water, Population and Communities (the department) administers a range of funding programs with the potential to support restoration and rehabilitation of damaged vegetation. Specifically, the Sustainable Environment stream of the Caring for our Country initiative and the Land Sector Package's Biodiversity Fund.

In recognition of the diverse range of responses required to meet the challenges of conservation and natural resource management, each of these programs have different focuses and eligibility requirements. The eligibility of activities to clean up environmental damage caused by flying foxes would depend on factors such as the location and type of activities being conducted.

While applications for the 2013–14 rounds of these programs have now closed, future opportunities for funding will be published on the department's website at:

<http://www.environment.gov.au/about/programs/index.html>.

**Senate Standing Committee on Environment and Communications
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Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: WHMD **Question No:** 108

Topic: Flying Foxes

Proof Hansard Page and Date Written

or Written Question:

Senator Rhiannon asked:

The Commonwealth is seeking to enact conservation agreements with the states to devolve assessment and approval for Flying Fox management to the states.

What level of consultation with conservation organisations and specialist flying fox organisations has been offered, sought or provided as part of this process?

Answer:

The proposed conservation agreements have been developed in consultation with the state government agencies that are responsible for assessment and approval of actions affecting flying-foxes under their state legislation.

The development of the conservation agreements has been informed by a wide range of government and non-government scientific expertise available to the Department of Sustainability, Environment, Water, Population and Communities including through the department's involvement in processes such as: the development of flying-fox recovery plans (and assessment by the Threatened Species Scientific Committee of those plans); experience and documentation associated with actions assessed under the *Environment Protection Biodiversity and Conservation Act 1999*, the ongoing development of flying-fox referral guidelines and the establishment of the National Flying Fox Monitoring Program.

**Senate Standing Committee on Environment and Communications
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Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: WHMD **Question No:** 109

Topic: Flying Foxes

Proof Hansard Page and Date Written

or Written Question:

Senator Rhiannon asked:

The Queensland government has announced that it will devolve Flying Fox management to local councils, and to individuals in certain situations. In the context of the Commonwealth's intent to devolve powers to the states.

Does this mean local councils and individuals will be responsible for the recovery of Grey Headed Flying Fox, a federally listed species? What are the risks in such a framework?

- a. How will the Commonwealth guarantee expertise knowledge and scientifically robust decision-making in this context?
- b. How will the Commonwealth ensure accountability and oversight in the protection of federally listed Flying Foxes, given the states' track record on other threatened species such as the koala?

Answer:

On 1 May 2013, the Queensland Minister for Environment and Heritage Protection, Andrew Powell MP, issued a media release announcing that local councils would be given the authority to manage problem flying-fox roosts in urban areas without having to apply to the Queensland Government for a damage mitigation permit.

On 29 May 2013, the Queensland Government released a discussion paper which described the proposed approach in general terms, but did not cover all operational details; nor did it address the issue of responsibility for the recovery of the species.

The Department of Sustainability, Environment, Water, Population and Communities is currently evaluating the new Queensland approach based on the information available.

Any change in the Queensland Government's approach to flying-fox management would not change the Commonwealth's requirements for protecting and conserving species which are listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Commonwealth will continue to use mechanisms under the EPBC Act to support robust decision-making and appropriate accountability for nationally listed threatened species.

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Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: WHMD **Question No:** 110
Topic: Flying Foxes
Proof Hansard Page and Date or Written Question: Written

Senator Rhiannon asked:

Where is the Grey Headed Flying Fox recovery plan up to?

- a. What changes have been made to plan over time, including recommended?
- b. How many recommendations been implemented, and what are the current outcomes and monitoring results?
- c. Have the threats for the species become greater or less since the Recovery Plan was first drawn up? Why?

Answer:

The New South Wales Government is the lead author of the draft grey-headed flying-fox recovery plan.

The draft recovery plan was considered by the Threatened Species Scientific Committee (the Committee) in March 2010 after the public comment period closed. The Committee's comments together with public comment submissions were provided to the New South Wales Government for a response. The revised draft was considered by the Threatened Species Scientific Committee in September 2012. The Committee endorsed the plan, subject to some further issues to be addressed before the plan is finalised and comes into force.

The grey-headed flying-fox monitoring program aims to provide data on flying-fox population size, distribution, trends and seasonal movement. The results of the program will help inform responses to public concerns about the impact of flying-foxes on industry, agriculture and public health, including Hendra outbreaks.

The first national count of the four year program was held in February 2013. Counts were conducted at 401 grey-headed flying-fox camps over a three day period. The resulting estimate for the total grey-headed flying-fox population was approximately 650,000 animals with roughly 70 per cent of those animals recorded in NSW, 23 per cent in Queensland, 6 per cent in Victoria and the remainder in South Australia and the Australian Capital Territory.

These numbers are indicative only. It is not yet possible to describe the errors associated with the estimate and so it is not possible to say what level of confidence can be assigned to the estimate. Describing the errors is a focus of the ongoing program. It will take a number of years to establish a reliable baseline estimate of the flying fox populations and estimate trends. A second count was held in May 2013. The results from that count will be published on the department's website shortly.

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Budget Estimates, May 2013

Program: Division: 5.2: WHMD **Question No:** 111
Topic: Kangaroos
Proof Hansard Page and Date Written
or Written Question:

Senator Rhiannon asked:

Which federal agencies, across all portfolios and departments, are involved in the promotion, lobbying, or otherwise opening up of kangaroo export markets?

Answer:

The Australian Government agencies involved in market access for kangaroo products include the Department of Agriculture, Fisheries and Forestry; the Department of Foreign Affairs and Trade; and the Australian Trade Commission (Austrade).

Senate Standing Committee on Environment and Communications
Legislation Committee
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Budget Estimates, May 2013

Program: Division: 5.2: WHMD **Question No:** 112

Topic: Kangaroos

Proof Hansard Page and Date Written

or Written Question:

Senator Rhiannon asked:

What tax concessions or other government support does the kangaroo industry receive at federal level, including representation of the industry's interests by government officials or MPs to overseas Trade or Foreign Affairs delegates?

- a. Has the government funded any kangaroo industry representatives to join overseas delegations to open up or maintain export markets in the last 5 years? May I have details please?

Answer:

The Department of Sustainability, Environment, Water, Population and Communities does not make representations on behalf of the kangaroo industry to overseas delegates.

Questions relating to the Agriculture, Trade or Foreign Affairs portfolios can be answered by those portfolios.

Senate Standing Committee on Environment and Communications
Legislation Committee
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Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 195

Topic: Liability for long term water impacts of coal seam gas

Proof Hansard Page and Date or Written Question: Written

Senator Waters asked:

As a matter of principle, who has the liability for groundwater impacts once the wells are sealed and the project complete, and who is responsible for monitoring, managing and rectifying groundwater impacts that exhibit themselves after the project is complete?

Answer:

The approvals for the three major Queensland coal seam gas projects take a precautionary approach and have been designed to ensure that impacts will be adequately monitored, managed and rectified over the duration of the approval to ensure no long term impacts occur to matters protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The approval conditions also allow for the Minister to require a financial assurance or bond be lodged by the proponents, which may be used for rehabilitation of habitat or for other purposes not addressed adequately by the proponent during the life of the project, including addressing unforeseen risks or impacts. The financial assurance must be provided in the amount and form required by the Minister and is to remain in force until the Minister is satisfied that no claim is likely to be made on the assurance.

The approvals for the Queensland coal seam gas projects have effect until 2060 and 2061. During this time the proponents have responsibility for complying with the approval conditions and making good any impacts that arise to the satisfaction of the Minister. Once an approval expires, proponents are no longer subject to the approval conditions nor are they permitted to conduct the action as previously described. If any residual impacts were to occur post the expiry date of an approval, the responsibility for addressing these impacts would need to be determined after consideration of the circumstances that lead to the impacts.

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Sustainability, Environment, Water, Population and Communities portfolio
Budget Estimates, May 2013

Program: Division: 5.2: EACD **Question No:** 196

Topic: Liability for long term water impacts of coal seam gas

Proof Hansard Page and Date or Written Question: Written

Senator Waters asked:

In all coal seam gas projects approved in this term of government:

- a. who has the liability for groundwater impacts once the wells are sealed and the project complete? Who is responsible for monitoring, managing and rectifying groundwater impacts that exhibit themselves after the project is complete? If this is not the proponent, why not?
- b. Did the Commonwealth require a financial assurity or bond to be lodged prior to commencement of any EPBC approved coal seam gas activities. For each project where such an assurity is in place please advise – what the funds are to be used for and how long after project completion any remaining funds will be returned to the proponent, and who bears what level of evidentiary burden to establish causation of damage by the project?

Answer:

- a. The approvals for the three major Queensland coal seam gas projects take a precautionary approach and have been designed to ensure that impacts will be adequately monitored, managed and rectified over the duration of the approval to ensure no long term impacts occur to matters protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The approval conditions also allow for the Minister to require a financial assurance or bond be lodged by the proponents, which may be used for rehabilitation of habitat or for other purposes not addressed adequately by the proponent during the life of the project, including addressing unforeseen risks or impacts. The financial assurance must be provided in the amount and form required by the Minister and is to remain in force until the Minister is satisfied that no claim is likely to be made on the assurance.

The approvals for the Queensland coal seam gas projects have effect until 2060 and 2061. During this time the proponents have responsibility for complying with the approval conditions and making good any impacts that arise to the satisfaction of the Minister. Once an approval expires, proponents are no longer subject to the approval conditions nor are they permitted to conduct the action as previously described. If any residual impacts were to occur post the expiry date of an approval, the responsibility for addressing these impacts would need to be determined after consideration of the circumstances that lead to the impacts.

- b. The approval conditions allow for the Minister to require a financial assurance or bond be lodged by the proponents, which may be used for rehabilitation of habitat or for other purposes not addressed adequately by the proponent during the life of the project, including addressing unforeseen risks or impacts. The financial assurance must be provided in the amount and form required by the Minister and is to remain in force until the Minister is satisfied that no claim is likely to be made on the assurance. To date, the Minister has not required the provision of a financial assurance for any of the approved Queensland coal seam gas projects, with the adaptive management mechanisms already in place deemed adequate.

The evidentiary burden in relation to financial assurances would be borne by the Department of Sustainability, Environment, Water, Population and Communities to the satisfaction of the minister.

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Program: Division:	5.2: WHMD	Question No:	206
Topic:	Little red flying fox – protocols and procedures		
Proof Hansard Page and Date or Written Question:	70 (29/05/13)		

Senator Waters asked:

Senator WILLIAMS: So if this little red flying fox is not on the threatened list and is not on the protected list, do you have any advice on how to move them out of the centre of a town? Is there any protocol or procedure that the department has taken to move them on?

Dr Dripps: There has been extensive and successful work undertaken by some of the state governments in moving flying foxes on. A particular example that springs to mind is that of the Victorian government, who moved flying foxes out of the botanic gardens and up the river to Ivanhoe in Melbourne. So there are protocols and procedures for doing this available. We could undertake to provide you with some information on that on notice, if you do not mind.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities has not been directly involved in actions to move on colonies of flying foxes.

Details of a 2003 large-scale dispersal program used by the Victorian Government to relocate Grey-headed flying-foxes from the Royal Botanic Gardens in Melbourne are available at: www.dse.vic.gov.au/plants-and-animals/flying-foxes-home-page/flying-foxes-melbournes-flying-foxes.

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Program: Division:	5.2: EACD	Question No: 207
Topic:	Flying fox – Queensland government response	
Proof Hansard Page and Date or Written Question:	71	
	29/05/13	

Senator Macdonald asked:

Dr Dripps: Just in terms of those time lines, Senator, the minister for the environment wrote to the environment ministers in Queensland, New South Wales, the ACT, Victoria and South Australia in May last year. There has been a pretty protracted process in receiving responses from the state governments. The revised draft of the conservation agreement was sent to New South Wales after consultation with them in November last year. The written comments on that draft were received on 13 February this year. So we have had several rounds of engagement with the states on this conservation agreement and we believe that it is quite close to finalisation.

Senator IAN MACDONALD: Well, that is New South Wales. I am more interested in Queensland. I respect that New South Wales is important. I want to put on notice this question: what is holding up the Queensland agreement? If you can tell me that, I will use what little influence I have in Queensland to make sure the Queensland minister addresses it immediately. I would be surprised if he is not, because I have been talking to him and he is very, very aware of the position. In fact, he and his leader have both made commitments regarding it. But on notice I ask you to indicate what the hold-up is insofar as Queensland is.

Dr Dripps: Yes, of course, Senator.

Answer:

The recent change in policy in Queensland has delayed the Commonwealth Government's ability to finalise a grey-headed flying-fox conservation agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) with the state.

Over the last 12 months, the Commonwealth has been working with officials from Queensland, New South Wales, the Australian Capital Territory and Victorian environment agencies to develop and agree a grey-headed flying-fox conservation agreement. Under this agreement, an action to manage a flying-fox camp that was authorised under a state regulatory framework would not require separate Commonwealth approval under the EPBC Act if carried out in accordance with the standards in the conservation agreement.

As the grey-headed flying-fox ranges across all these states, and is considered to comprise a single interbreeding population, it is desirable to develop a consistent national approach to the conservation agreement that meets all necessary requirements of the EPBC Act.

The approach discussed with Queensland officials relied on approvals under the Queensland *Nature Conservation Act 1992* being issued at state level by the Queensland Department of Environment and Heritage Protection. Drafts of the conservation agreement were prepared on this basis.

On 1 May 2013, however, the Queensland Minister for Environment and Heritage Protection, Andrew Powell MP, issued a media release announcing that local councils would be given the authority to manage problem flying-fox roosts in urban areas without having to apply to the Queensland Government for a damage mitigation permit. On 29 May 2013, the Queensland Government released a discussion paper which described this approach in general terms, but did not cover all operational details.

The department is currently evaluating the new Queensland approach to determine whether a conservation agreement can still be used to streamline the regulation of flying-fox camp management while maintaining appropriate environmental standards and consistency with the agreements negotiated with other state governments.

Senate Standing Committee on Environment and Communications
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Program: Division:	5.2: EACD	Question No:	208
Topic:	Gladstone Modelling		
Proof Hansard Page and Date or Written Question:	86 29/05/13		

Senator Waters asked:

Ms Colreavy: Senator, you asked about the modelling. The modelling for the western basin dredging project was similar to the modelling that was undertaken by GBRMPA in their recent research project. So, in essence, that was your question.

Senator WATERS: Yes. That is it, thank you.

Ms Colreavy: I have asked the staff to investigate the documents for it. Unfortunately, it is really complex. There was certainly extensive modelling undertaken. We have got a lot of documents on the modelling. We referred that for expert advice. We are unable to pull it together quickly enough during this interlude to actually give you a definitive answer on what was investigated and what was not. I have a copy of the statement of reasons that was provided. I have gone through it. I am happy to give you a copy, but I do not think—

Senator WATERS: I think I have already read that one. It does not really shed any light on that particular question.

Ms Colreavy: No. I was just going to say I do not think it really helps you go to the technical detail of the question. But we could take that on notice and actually provide you with an overview, if you like, of what the modelling was and what it covered in that project.

Senator WATERS: I would appreciate that. As promptly as you can would be greatly helpful.

Ms Colreavy: We will do our best.

Answer:

Refer to the answer provided to Question No. 089 on this matter.

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Program: Division:	5.2: EACD	Question No:	209
Topic:	Sea Dumping – Border Protection Command permit		
Proof Hansard Page and Date or Written Question:	88 (29/05/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: Border Protection Command indicated that their last permit expired in 2005. Is that correct? How is it that they have been operating for eight years without a permit? Does it mean that they have been in breach of the sea dumping act?

Ms Callister: I am not aware when their last permit expired, so I would need to take that information on notice.

Answer:

The last permit under the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act) for the disposal of apprehended vessels at sea expired in July 2005. As outlined in the responses to the questions on notice from the Additional Budget Estimates in February 2013, the Department of Sustainability, Environment, Water, Population and Communities (the department) is currently assessing an application to dispose of apprehended vessels at sea under the Sea Dumping Act submitted by the Australian Fisheries Management Authority and Border Protection Command.

The department is not currently investigating any potential breaches under the Sea Dumping Act for the disposal of apprehended vessels. Under section 15(3) of the Sea Dumping Act, there are exemption provisions from the requirement to obtain a permit when the conduct appeared to be the only way of averting a threat to human life, or to the safety of a vessel, aircraft or platform, and there was every probability that the damage caused by the conduct would be less than would otherwise occur. For vessels disposed at sea in such circumstances, the department receives incident reports from Border Protection Command.