



Dam the Mary River? Save the Mary River!

Save the Mary River Brisbane Group

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Secretary: David White

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The Secretary

Senate Standing Committee on Environment

Communications and the Arts

PO Box 6100

Parliament House

CANBERRA ACT 2600

[Email address eca.sen@aph.gov.au](mailto:eca.sen@aph.gov.au)

RE: Submission to the Senate Inquiry into the operation of the Environment Protection and Biodiversity Conservation Act 1999

Dear Sir/Madam

The Save the Mary River Brisbane Group (STM RBG) is affiliated with the Save the Mary River Coordinating Group, based in the Mary River Valley, which has also made a submission to this review.

We welcome the opportunity to provide our views on the Inquiry into the operation of the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) based on our experience with the approvals process of the proposed Traveston Crossing dam (TCD) on the Mary River in Queensland. We present this project as a case study in the flaws of achieving ESD at both the State and Federal level.

Shortcomings in the assessment of the EPBC Act process we have experienced include:

Scope of the Act

- Q1e: The Commonwealth needs to have a more direct role in regulating environmental matters. There is a need to improve the achievement of the objectives of the Act, namely ESD. Clearer definitions are needed of the kinds of impacts that should be examined, in particular externalities. If the EPBC Act is the only mechanism for examination of social and economic, as well as environmental, impacts of significant projects, then this requirement also needs to be strengthened. Scant attention was given to the examination of socio-economic impacts in the Traveston Dam EIS, in particular the hidden costs of pain and suffering. Greenhouse gas generation was also not given sufficient examination.

Assessment and Approvals

- Q3: Stricter guidelines are needed on what needs to be assessed during the approvals process to ensure fuller assessment of impacts, including social and economic impacts, especially externalities. Downstream impacts of the proposed TCD on the Great Sandy Straits Ramsar wetlands should have been examined in more detail, as should the socio-economic impacts on the entire region.
- Q5: We suggest adding a step to the referral process (Flow chart, Review Discussion Paper p.16) and apply a preventative audit, a first pass assessment, to prevent vexatious costly and time-consuming assessments of projects that were always going to have difficulty meeting their requirements under the Act, and were highly likely to be deemed “clearly unacceptable”. There is a need to be able to over-ride poor State-level performance, so that more independent expert voices and those highly impacted are heard at an earlier stage. Had such a first pass “pass-fail” assessment been in place, it may have prevented a very large sum of public monies being spent in acquiring properties and putting Mary Valley residents through years of unnecessary suffering. Causing such impacts during the referral process is unwarranted and highly ethically and morally questionable and should also be made illegal. In our experience of the TCD proposal, the self-assessment process envisaged under the EPBC Act is not working.
- Q6 & 8: The bilateral agreement with the State of Queensland is not working as the State Development and Public Works Organisation Act 1971 (SDPWO Act) is far from a trustworthy process for ensuring an adequate understanding of the impacts. It has been regularly misused by successive governments as a way of avoiding normal state planning requirements. There is a need to strategically assess all State legislation that attempts to over-ride normal processes and to bring them into line with the objects of the revised EPBC Act.
- Q7: The EPBC Act needs to drive harmonization both ways with the States. The SDPWO Act needs to be overhauled so that it complies with the objects of the EPBC Act. How much does it reflect the ESD objectives of the Act, including the short-term and long-term triple bottom line aspects? The threat of irreversible environmental damage, particularly to the listed threatened species (LTS) should have been a fundamental consideration in the Queensland Governments decision-making. Although there was a significant lack of sound data on the impact on the LTS, the precautionary principle was not applied.

Biodiversity

- Q18: There are a number of LTS in the Mary River and the proposed TCD is very clearly a Key Threatening Process, yet the Queensland Government took a very casual attitude to the protection of these matters of environmental significance, claiming insufficient data or promoting unproven mitigating actions for LTS protection. The impacts on the Great Sandy Straits Ramsar wetlands were also cursorily investigated. Therefore the provisions in the Act are clearly ineffective in protecting biodiversity. How can the Act be strengthened to ensure these matters are given greater emphasis?
- Q19: The Act needs to be amended to include provision for a full life-cycle examination of the potential to generate greenhouse gases.

Protected Areas

- Q27: Protection of Ramsar wetlands is a matter of NES. However, as mentioned earlier, the Great Sandy Straits Ramsar Wetlands were given insufficient attention in the assessment of the downstream impacts of reduced environmental flows caused by the proposed Traveston Crossing Dam.

Compliance and Enforcement

- Q36: We suggest strengthening penalty provisions and forcing the States to improve their own poor legislation to meet EPBC requirements. For example, the Queensland *SDPWO Act* passed during the Bjelke Petersen era of development, allows the State Government to bypass the normal planning rules. It still applies today. As the relationship between the proponent and the consultants commissioned to undertake EIS is often perceived to be too close, EIS are now popularly known for telling the proponent what they want to hear, and have attracted a bad reputation. There are no penalties under the SDPWO legislation for telling lies in an EIS required for large developments, such as the TCD. As a result, there are many inaccuracies in the TCD EIS which could be argued are “reckless false or misleading information”. Under the EPBC Act they may attract up to

two years imprisonment. This assessment process is becoming worthless in the eyes of the public, and we believe this can be addressed through the review of the EPBC Act. Either the Act needs to prescribe minimum standards for EIS, or there needs to be a greater use of independent studies to ensure “potential and actual impacts of a particular action are adequately understood” (Chap 4, Review Discussion Paper.), or we believe EIS should be removed from the accredited State assessment process.

Do the penalties for “knowingly or recklessly providing false or misleading information to obtain approval” apply to Governments and EIS consultants?

Decision Making Under the Act

- Q41: The public was not given the opportunity to participate or be consulted during the preparation of the Supplementary EIS for the Traveston Dam. Can the EPBC Act address this in future and make it compulsory for all documents prepared in the referral period to be open for public scrutiny at both the State and Commonwealth level?

We hope our submission assists in developing more effective Commonwealth controls on large-scale development.

Vikki Uhlmann,
Convenor, Save the Mary River Brisbane Group