

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 41

Hearing: Supplementary Budget Estimates

Outcome: Outcome 5

Programme: Environment Assessment and Compliance Division

Topic: Water Trigger

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Question Date: 18 November 2013

Question Type: Spoken

Senator Urquhart asked:

Senator URQUHART: I quickly want to follow up on the issue about the water trigger. Did the department have the authority to make the decision, and did the previous minister leave any approvals undecided? Could you just clarify those two points for me.

Mr Knudson: The legal risk that I was referring to earlier indicated that the provisions of the amendment to the act to bring on the water trigger into a fact did not enable—at least, there was uncertainty over the authority to delegate decision making to departmental officials. On that basis we thought that, to provide absolute certainty in terms of those decisions, it was most appropriate that a minister make those decisions.

CHAIR: The committee will suspend—

Senator URQUHART: There was one other—

CHAIR: We are out of time, Senator Urquhart.

Senator URQUHART: He did not answer that one about the—

CHAIR: Put it on notice.

Answer:

Following the agreement of the previous Minister, decisions on whether the water trigger needed to be applied to projects already under assessment were being made under delegated authority in the Department. After receipt of a number of proponent's responses to the department's delegated decisions, and to provide legal certainty about the application of the water trigger, the Department determined that it would be appropriate for the Minister to make all water trigger decisions.

Accordingly, the Department ceased the previous approach and commenced preparing water trigger decision briefs for the Minister. Following the caretaker period and subsequent federal election, these briefs were provided to the Minister for consideration. There were 50 large coal mine and coal seam gas developments currently being assessed under national environment law on which incoming Environment Minister Hunt had to decide whether to apply the water trigger.