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**Submission from Doctors for the Environment  
Australia  
on the  
Environment Protection and Biodiversity  
Conservation Amendment (Bilateral Agreement  
Implementation) Bill 2014**

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/EPBC\\_Bilats\\_and\\_cost\\_recovery\\_Bills](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/EPBC_Bilats_and_cost_recovery_Bills)



The following are members of our Scientific Committee and support the work of  
Doctors for the Environment Australia

Prof. Stephen Boyden AM; Prof. Peter Doherty AC; Prof. Bob Douglas AO; Prof. Michael Kidd AM;  
Prof. David de Kretser AC; Prof. Stephen Leeder AO; Prof. Ian Lowe AO; Prof. Robyn McDermott;  
Prof. Tony McMichael AO; Prof. Peter Newman; Prof. Emeritus Sir Gustav Nossal AC; Prof. Hugh Possingham; Prof. Lawrie  
Powell AC; Prof. Fiona Stanley AC; Dr Rosemary Stanton OAM; Dr Norman Swan;  
Prof. David Yencken AO

This submission from Doctors for the Environment Australia on the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 addresses the following terms of reference

- potential impacts of delegating environmental approval powers to state and territory governments;
- maintenance of high environmental standards;
- benefits of streamlining and reducing red tape;

## **Summary**

1 We contend that delegating environmental approval powers to state and territory governments carries significant potential to compromise human health. We will present evidence that State and Territory health assessments as part of the EIS process are already flawed on many occasions and further delegation of powers is unwise.

2 The maintenance of environmental (and associated human health standards, such as they are) will be further eroded.

3 There are no benefits from streamlining and reducing red tape in this instance. A reduction in standards has the potential to pass costs of say ground water contamination to the general community and the budgets for future generations. Potentially these costs are huge.

4 We believe that the former and present governments are very unwise to pursue the matter of green and red tape without an enquiry into the performance of the states in applying present environmental and health procedures. We present evidence that this is grossly inadequate on many occasions. We also express concern about the possible neglect of human rights issues.

## **Introduction**

This Bill is one of the most important to come before this Parliament because it has implications for the sustainability of Australian society. Today the word sustainability is frequently used incorrectly and is often corrupted, so it is important to reiterate its meaning in terms of the need for an effective "Water Trigger".

Water is essential to life, food and progress. Science tells us unequivocally that most of Australia's agricultural regions are committed to a gradual drying process over the next few centuries; this results from the volume of greenhouse gases released into the atmosphere over the past 150 years; even if nations had the resolve to stop emitting greenhouse gases right now, the climatic processes that dry most of Australia will continue.

Sustainability applied to this situation means applying prudent management based on science of all ground water and aquifer resources so that they are available as potable and agricultural resources to future generations over several centuries. Don't let us demote this issue as simply "environmental" which governments find easy to categorise like a single threatened species of possum. It is an issue of human health and wellbeing – and the survival of an important species, homo sapiens in Australia. The following peer reviewed editorial in the Medical Journal of Australia by one of our most respected scientists will place the matter in context for the Senate Committee.  
<https://www.mja.com.au/journal/2014/200/9/climate-change-health-risks-mount-while-nero-fiddles>

To those members of parliament who read these words, we ask them to think carefully; it is perhaps a difficult matter to comprehend for a Parliament and government lacking in scientific qualification and understanding, but to put the issue in perspective we contend that it greatly overshadows the stated crisis on budget deficits.

The government has explained the need for immediate action on the budget crisis in term of the unfairness of passing debt to the next generation. We have an unfolding environmental crisis with implications for human health which eclipses the budgetary one and extends to countless future generations. This is the unfairness we should be anguishing over.

This submission from a health advocacy organisation will explain why this Amendment should not proceed for it will compromise one of the few constraints to the inappropriate and profligate use of water approved by the states in their rush for resource development.

### **The Amendment has implications for human health**

The medical profession is united in its concern about present inadequate assessment processes and the risks of passing responsibility to the states. In the case of CSG development DEA made a *Submission to the Rural Affairs and Transport References Committee Inquiry into management of the Murray Darling Basin – impact of mining coal seam gas* in June 2011  
[http://dea.org.au/images/uploads/submissions/MDB\\_CSG\\_Senate\\_submission\\_June\\_2011.pdf](http://dea.org.au/images/uploads/submissions/MDB_CSG_Senate_submission_June_2011.pdf)

The authors included a Nobel Prize winner, an expert in population health, a public health physician and clinicians

Essentially there has been no action over our concerns on this apart from the formation of the IESC which we discuss below

A year ago the AMA joined our concerns and its present position was expressed by then President Steve Hambleton on 26 June (ABC news):

It's been 12 months since the AMA called on state and federal governments to ensure all CSG proposals are subject to rigorous and independent health risk assessments.

Immediate past-President Dr Steve Hambleton says the industry continues to expand without any research or ongoing assessment of what the affects might be for human health.

"In the five years leading up to 2008 we saw an increase by 32 per cent per year, [and] it seems that momentum has continued," he said.

"We really stand by what we said last year [that] we really should be evaluating the health impacts."

Dr Hambleton says until the potential impact on human health is known, the precautionary principle should be taken.

"When there is insufficient evidence we have to be extra careful," Dr Hambleton said.

"We do know that we're trying to release gas from coal seams deep underground, and often that's done by injecting highly pressured water and other chemicals in the coal seams to break it up.

"That produces large amounts of waste salt and large volumes of water, but the overall effects over the long period, we're not so sure about."

Federal Environment Minister Greg Hunt is looking to hand some power back to the states, for the approval of large mining and gas projects likely to have impacts on water resources.

Dr Hambleton, says the federal government should retain these powers, as the states are conflicted when assessing such projects.

"This federal government is trying to separate state and federal powers, but this is a national issue and we do want national consistency," he said.

## **The medical profession is united in its stance; human health is at risk under the present assessment processes and the proposed Amendment is likely to make matters worse**

### **Understanding the health functions of the IESC**

Essentially this committee was formed to bring together the nation's leading water scientists and experts to provide safety to the planning of the exploitation of mineral resources many of which are necessary for the future of humanity. The IESC is an eminently sensible approach when no state has sufficient scientific resources to provide its own adequate assessment.

The creation of the IESC was therefore a precaution against states providing inadequate assessment for this part of the EIS process- and there is ample evidence of many inadequate assessments. DEA has produced a comprehensive assessment of this process with examples from all states.

*The Health Factor: Ignored by industry, overlooked by government* (report)  
<http://dea.org.au/news/article/the-health-factor-ignored-by-industry-overlooked-by-government>

The IESC was also a precautionary mechanism using federal government oversight against the pressure on state governments by powerful resource companies, and their need for jobs and income to balance budgets.

The science of ground water is extremely complex for it necessitates detailed knowledge of geological formations over vast areas. In many cases therefore expert opinion on the probability of harm has to be given on inadequate scientific data. There is a need therefore to apply the precautionary principle in case irretrievable harm is done. This is the role of the committee and this approach is reflected in all their reports. For example, the IESC report on the Carmichael mine; we urge the Senate Committee to read this report for we will refer to it in our arguments below

To illustrate the potential dangers of large resource projects to water, let us draw attention to the coal mining in Virginia US which has proceeded for a century. This has rendered numerous water ways contaminated and unusable for use by humans, animals and crops. Admittedly the mining in Virginia includes some of the most destructive practises but the size and potential impact of some to the proposed Galilee Basin mines would fall into this category

The water and health impacts in Virginia are detailed by the US Physicians for social responsibility <http://www.psr.org/assets/pdfs/psr-coal-fullreport.pdf>

For these reasons we regard the IESC as having important health protection benefits that needs to be managed nationally and expanded further to include more studies on health at a time when clinical effects are beginning to be documented in two recent articles in the Medical Journal of Australia, <https://www.mja.com.au/insight/2014/17/gas-mining-health-concerns> <https://www.mja.com.au/journal/2014/200/4/harms-unknown-health-uncertainties-cast-doubt-role-unconventional-gas-australias> and in many overseas medical journals

### **The inability of state governments to comply**

DEA makes submissions on many Environmental Impact Assessments (EIAs) because Health Impact Assessment (HIA) can be included, though these are frequently neglected or inadequate.

Let us examine one major coal mine, Carmichael, for which water considerations were extensively studied by IESC

DEA made submissions at all stages of the Carmichael EIS process

Carmichael Coal Mine and Rail Project Draft TOR for an EIS

[http://dea.org.au/images/uploads/submissions/Carmichael\\_submission.pdf](http://dea.org.au/images/uploads/submissions/Carmichael_submission.pdf)

Submission To Carmichael Coal Mine and Rail Project Environmental Impact Statement

[http://dea.org.au/images/uploads/submissions/Carmichael\\_Coal\\_Mine\\_and\\_Rail\\_Project\\_Submission\\_02-13.pdf](http://dea.org.au/images/uploads/submissions/Carmichael_Coal_Mine_and_Rail_Project_Submission_02-13.pdf)

Submission to the Carmichael Coal Mine and Rail Project Supplementary Environmental Impact Statement

[http://dea.org.au/images/uploads/submissions/Carmichael\\_Coal\\_Mine\\_and\\_Rail\\_Project\\_SEIS\\_Submission\\_12-13.pdf](http://dea.org.au/images/uploads/submissions/Carmichael_Coal_Mine_and_Rail_Project_SEIS_Submission_12-13.pdf)

It is our opinion that particular approval was facilitated by ensuring that the ToR failed to include essential components from the outset, in this case in relation to health impact assessment and most importantly the true economic worth of the project. We provide the evidence in our submission on the SEIS.

We believe this to be one of several subtle mechanisms whereby state governments obtain their favoured result from a supposedly independent EIA processes

The IESC provided a report on the water issues at Carmichael for the proposed use of ground water was prodigious and ground waters might have continuity with the Great Artesian Basin (GAB). We note that one of many criticisms from the IESC states

“Further data collection and assessment of the Rewan Formation is necessary. In addition, more data is needed to predict the effect of potential subsidence induced fracturing in the Rewan Formation on leakage rates from the GAB to the coal seam. Information on the degree of groundwater connectivity between the coal seams and the GAB is essential to understand the potential impacts of this project”

In their general conclusion the IESC expressed concern about the impact of the mine on groundwater in the underlying and adjacent GAB. It had little confidence in the modelling used by Adani and indicated not enough was known about how the coal seams connect to the Great Artesian Basin, or the likely effects of mining.

In the view of DEA this endangers the GAB to irreversible contamination from coal seam toxics in the same way that long-term water resource contamination is reported from coal mining in Virginia USA. We find the IESC report to be a compelling criticism of the Carmichael EIS and we urge Senators to read the full report.

The ability of the states to properly utilise the findings of the IESC are drawn into doubt by the response of the QLD government to the IESC report on the Carmichael mine. The government hired its own expert to contest the IESC findings and the proponent Adani also produced a refutation.  
<http://www.abc.net.au/news/2014-05-12/coal-mine-approved-despite-expert-environmental-concerns/5447150> DEA contends this situation represents a gross conflict of interest and raises the question as to who has the final say for the public interest when the Queensland government then approved the project. The Queensland government has become the arbiter though it is greatly conflicted by promoting the project.

The conclusion of this assessment should be a rejection by the federal Government under the precautionary principle on the findings of the IESC. Clearly the project would be accepted once the fox owns the hen coup

## **How does the Amendment to the EPBC Act affect this situation?**

Firstly it gives more say and power for manipulation to the state governments which already conduct inadequate EIA processes. The federal government will oversee the rules but the states fail to enact existing rules. Most importantly, greater independent oversight by the Federal government is lost by avoiding the possibility of Parliamentary scrutiny. It also leaves many issues that cannot be addressed by the proposal, for example

- The potential water impacts of the huge Queensland coal mines on the Great Artesian Basin (GAB) are not just a Queensland issue, for the GAB straddles several states. Are all these states to be allowed to contest the IESC reports?
- How will the situation be addressed when some states and territories judge that EIA is not required as in the case of NT and unconventional gas? There is no mechanism for involving the IESC
- The recommendation "all states and territories can be declared under the Act for the purposes of requesting advice from the Independent Expert Scientific Committee" is regressive. How are some states able to have the knowledge to call for and utilise advice from the IESC when they are so under-resourced that their EIAs are inadequate and they have provided insufficient resources to monitor environmental regulation. For example the latest compliance report from Queensland documents 420 incidents per year in gas fields and only 10 field inspections of fracking for the state. In health terms this is deplorable  
<http://www.ehp.qld.gov.au/management/non-mining/enforcement-compliance.html> Furthermore the states frequently have a conflict of interest in approvals and it may be expedient for them to avoid expert opinion.

In conclusion the one stop shop is an economic, health and environmental advance if it is a federal one and not 8 jurisdictions which prepare 8 assessments of say the water and health aspects of fracking by each of their under-resourced, small groups of departmental experts. This results in many differing opinions when one authoritative assessment is necessary, and unnecessary expenditure is incurred for the Australian community as a whole. A Federal one stop shop modelled on the US EPA has significant advantages for states, business, and communities and it works efficiently in a cost effective manner in the USA state-Federal system; - pages 22-24 and Appendix 4  
[http://dea.org.au/images/general/DEAtheHealthFactorV2\\_2013.pdf](http://dea.org.au/images/general/DEAtheHealthFactorV2_2013.pdf)

## **Human rights**

It is stated "This Bill is compatible with human rights as it does not raise any human rights issues"  
We do not agree

A good starting point in this discussion is the Constitution of the World Health Organisation (WHO) which states: *"the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being..."* The WHO doubtless had in mind the health issues in developing nations but we should recognise that this right is even more important in wealthy countries (and Australia tops the world league with Switzerland in living standards) for we can afford to set and observe the highest standard in health.

It is particularly important issue in Australia when poor health outcomes are imposed on communities from the inadequate regulation of standards and inadequate approval processes referred to in this submission. Individuals have responsibilities for their own health in such matters as smoking diet and exercise but the inhabitants of the Hunter Valley and many other regions have no choice but to breathe polluted air.

The EPBC Amendment under consideration is an amendment to already seriously flawed processes. It is impossible to say whether human rights will be compromised but on the track record of some states the probability is that they will be. In Australia today thousands of citizens are marching and protesting for lack of proper consultation processes, there is no effective avenue to have their concerns heard. It is government plus proponent versus the people. This is a very damaging situation for health, necessary development and for sound economic planning. In any EIA the Government should be the independent arbiter. A full inquiry of the approval processes would we believe expose many additional instances of flawed consultation processes akin to the one that received a legal judgement recently. We can provide many examples.

### **Doctors for the Environment Australia (DEA)**

Doctors for the Environment Australia (DEA) is an independent, self-funded, nongovernment organisation of medical doctors in all Australian States and Territories. Our members work across all specialties in community, hospital and private practices. We work to prevent and address the diseases – local, national and global – caused by damage to our natural environment. We are a public health voice in the sphere of environmental health with a primary focus on the health harms from pollution and climate change.





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