

Environment and Communications References
Answers to questions on notice
Agriculture, Water and the Environment Portfolio

Inquiry: Oil and gas exploration and production in the Beetaloo Basin
Question No: IQ22-000001
Hearing Date: 25 March 2022
Division/Agency: Environment Protection Reform Division (EPRD)
Topic: Representations to the Commonwealth regarding the Pepper Inquiry
Hansard Page: 23
Question Date: 28 March 2022
Question Type: Spoken

Senator McCarthy asked:

Senator McCARTHY: I'm just trying to understand. You said in response to my first question that the government had made a decision not to move forward on it at this stage, so I'm just trying to understand how you made that decision.

Mr Tregurtha: My colleague Mr O'Connor-Cox potentially has some more information.

Mr O'Connor-Cox: Just to reinforce Mr Tregurtha's evidence: the government has not made a decision to expand the scope of the water trigger. The independent review of the Environment Protection and Biodiversity Conservation Act conducted by Professor Samuel was released earlier last year, and the government has released a pathway document and an associated time line which together spell out the priorities for the government in its staged approach to reform of the EPBC Act. The government's first priority is to implement single-touch environmental approvals underpinned by standards and assurance.

Senator McCARTHY: Are you saying to the committee that the Samuel review is the reason you won't look at the question around the water trigger recommendation of the Pepper review?

Mr Tregurtha: No, that's not what we're saying. I'm happy to follow up with more information if needed, but the clearest way of putting it is that my understanding is that the inquiry you are referring to—I think it's the Pepper inquiry; is that correct?—was an inquiry commissioned by and reporting to the Northern Territory government, not the Commonwealth government. So the recommendations made in that report were provided to the Northern Territory government. I am conscious that a number of those recommendations go to matters that are beyond the jurisdictional remit of the Northern Territory government, but in that case, from our perspective, as to the missing step, if you like, I would have to go back and check whether the Commonwealth government has had any representations directly, as a result of that report, in relation to making the change you are suggesting. I am happy to take that on notice and go back and determine whether any direct representations have come in, to which the Commonwealth would have responded. But, at this point in time, we consider that that report was a report commissioned by and reporting to the Northern Territory government.

Senator McCARTHY: It was totally commissioned by the Northern Territory government, but this particular recommendation requires the Commonwealth to respond, and, in our questioning of the Northern Territory agency, they had ticked the box in their recommendations that the water trigger recommendation had been completed. When I asked the witnesses this Monday what that meant, in their response—and please, by all means, go and have a look at the Hansard—it meant that they had done what they needed to do, which was to alert the Commonwealth. Can you please have a look at what correspondence you've had with the Northern Territory government in relation to that and also provide to this committee what your response has been to that particular recommendation.

Mr Tregurtha: Absolutely. I'm very happy to go back and do that. We'll try and get that done as quickly as we can.

Answer:

In a letter dated 17 April 2018 to the then Minister for the Environment and Energy (and copied to the Prime Minister), the Chief Minister of the Northern Territory sought the Commonwealth's consideration of a legislative amendment to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to apply the water trigger to all onshore shale gas developments, as recommended by the *Report of the Scientific Inquiry into Hydraulic Fracturing of Onshore Unconventional Reservoirs in the Northern Territory* (the Pepper Inquiry) (recommendation 7.3).

In response, the then Prime Minister, the Hon Malcolm Turnbull MP, wrote to the Chief Minister on 10 May 2018. The response noted that the next statutory review of the EPBC Act, which was due to commence by October 2019, would consider the operation of the Act, including the water trigger.

The Northern Territory government's submission to the review recommended that if a Matter of National Environmental Significance trigger for water resources is retained, it should be amended to reflect recommendation 7.3 of the Pepper Inquiry, and significant risks to water resources more generally.

The Independent Review of the EPBC Act, undertaken by Professor Graeme Samuel AC, considered the operation of the water trigger. The Review found that the Commonwealth's focus in regulating water resources in the EPBC Act should be limited to those water resources that span jurisdictions, and recommended (recommendation 1(a)):

- that the water trigger be amended to apply to all actions likely to have a significant impact on cross-border water resources, and
- that restrictions be removed where they prevent other parties from being accredited to undertake approvals of proposals assessed under the water trigger.

The *Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020*, which is currently before the Senate, removes restrictions that prevent states and territories from approving proposals under the water trigger.

There are no other changes proposed to amend the water trigger as recommended by the Review at this time.

Environment and Communications References
Answers to questions on notice
Agriculture, Water and the Environment Portfolio

Inquiry: Oil and gas exploration and production in the Beetaloo Basin
Question No: IQ22-000002
Hearing Date: 25 March 2022
Division/Agency: Environment Approvals Division (EAD)
Topic: Beetaloo Basin
Question Date: 28 March 2022
Question Type: Written

Senator McCarthy asked:

1. Would a Memorandum of Understanding (MOU) normally encompass responsibilities for environmental mitigation?
2. What are the environmental impacts of developing a new gas basin in the Beetaloo?
3. What responsibility does DAWE have for the environmental impacts associated with the future development of the Beetaloo Basin?
4. What responsibility does DAWE have for the water use associated with the future development of the Beetaloo Basin?
5. The NT Government recently amended its key environmental legislation, the Environment Protection Act 2019 (NT). Are you confident that the Territory's environmental approval process is sufficiently robust to protect the Beetaloo from damage caused by gas activities?
6. With these legislative amendments, is the Australian Government any closer to accrediting the NT's environmental approval regime?
7. Has the department conducted an assessment of how infrastructure development, including greenfield roads or pipelines, might impact matters of national environmental significance, in the development of the Beetaloo resource?
8. Are there any matters of national environmental significance in the Beetaloo?

Answer:

1. Would a Memorandum of Understanding (MOU) normally encompass responsibilities for environmental mitigation?

A Memorandum of Understanding is a non-binding agreement between two or more parties. The elements of each Memorandum of Understanding (including whether or not it contains environmental matters) are determined by the relevant parties.

2. What are the environmental impacts of developing a new gas basin in the Beetaloo?

Refer to question 3.

3. What responsibility does DAWE have for the environmental impacts associated with the future development of the Beetaloo Basin?

A person proposing to take an action that is likely to have a significant impact on matters protected under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) must refer their project to the department to consider whether or not further assessment and approval is required under the Act before their action commences.

As at 30 March 2022, no unconventional gas projects in the Beetaloo Basin have been referred to the department under the EPBC Act.

4. What responsibility does DAWE have for the water use associated with the future development of the Beetaloo Basin?

Water usage associated with development activities, including in the Beetaloo Basin, is the responsibility of the Northern Territory government.

5. The NT Government recently amended its key environmental legislation, the *Environment Protection Act 2019* (NT). Are you confident that the Territory's environmental approval process is sufficiently robust to protect the Beetaloo from damage caused by gas activities?

Refer to question 6.

6. With these legislative amendments, is the Australian Government any closer to accrediting the NT's environmental approval regime?

The department will use the *Accreditation criteria for 'single touch' approvals under the Environment Protection and Biodiversity Conservation Act 1999* to analyse the extent to which state or territory processes satisfy the requirements of the EPBC Act.

Negotiations are continuing with the Northern Territory government in relation to establishing an approval bilateral agreement under the EPBC Act.

7. Has the department conducted an assessment of how infrastructure development, including greenfield roads or pipelines, might impact matters of national environmental significance, in the development of the Beetaloo resource?

No. Refer to question 3.

8. Are there any matters of national environmental significance in the Beetaloo?

Yes.