

Dissenting Report

Australian Greens

1.1 Australia's surface and ancient groundwater systems are under threat from significant and potentially irreversible impacts from the rash of mining operations expanding across all our states and territories. Inappropriate mining operations risk our environment, our food security, the viability of diverse agricultural activities, and the sustainability of the groundwater systems themselves - nationally important resources that do not respect state borders.

1.2 This Bill gives the federal Environment Minister the power to refuse or condition mining activities (including coal seam gas (CSG) activities) where they would have a significant impact on our national water resources – oversight so crucial for the protection of our farmland and natural environment.

1.3 The Bill intentionally defines mining operations broadly to ensure that any activities associated with mining that are likely to have a significant impact on our groundwater or surface water are subject to assessment by the federal Environment Minister.

1.4 Water resources are also broadly defined to ensure significant impacts on all natural surface and groundwater systems are subject to federal assessment, and these impacts include impacts not just on water levels, but the quality, structural integrity or hydraulic balance of our water resources. This means, for example, that the significant uncertainties around CSG's potential to pollute and deplete groundwater systems, and the significant risks associated with the enormous quantities of salty brine extracted from wells, will be properly considered by the federal Environment Minister.

1.5 The Bill also protects the integrity of our water resources from mining activities, no matter what the tenure or land use – thus protecting water for both current and future agricultural uses, as well as, critically, environmental flows for our natural environment.

1.6 The inquiry heard a number of concerns to which the Australian Greens would like to respond.

1.7 Concerns have been raised about the Bill's commencement date, which is to be from the date the Bill was introduced into the Senate – 1 November 2011. As is clearly set out in the explanatory memorandum of the Bill, it is acknowledged that under normal circumstances Bills commence on Royal Assent, however in this instance retrospective commencement is needed to ensure approvals for mining operations are not fast-tracked following introduction of the Bill. This is to ensure all mining operations commencing after the day this Bill is introduced are subject to Commonwealth assessment and approval where these operations are likely to have a significant impact on Australia's water resources.

1.8 The current rampant expansion of mining activities across much of Australia poses significant risks to our water resources and these are currently being inadequately managed by the states and territories. In light of this, and the time this Bill will take to become law, it is considered that the public interest in ensuring adequate protection for our water resources outweighs the inconvenience caused by retrospective commencement.

1.9 Some concern was also expressed about the fact that this bill is industry specific – that is, targeted at mining activities likely to have a significant impact on our water resources.

1.10 It is recognised that a broader trigger to protect water from all deleterious activities could have merit. However the industry specific trigger is proposed at this stage for two reasons. Firstly, the significant new risks posed to Australia’s water resources due to the current rampant expansion of the mining industry across Australia warrants particular focus and federal oversight. As noted by CSIRO in the hearings:

The coal seam gas will, by very nature of extraction of ground water, have an impact, as any extraction will. These are impacts that relate to ground water resources through pressure changes, impacts of water being brought to the surface and salt associated with that. The depressurisation can also release gases into the aquifer. They are all impacts that are caused by coal seam gas.

As it is a relatively new industry, whilst the processes are understood, it takes some time to understand the properties associated with any hydrogeological setting.... In a situation where you have done extraction for a limited amount of time, you are working with less information and the uncertainties are higher.

Mining operations can impact on ground water in much the same way as coal seam gas.¹

1.11 Secondly, there are significant gaps and shortcomings in the states and territories’ regulation of water in relation to mining activities, more so than for other activities, as was heard in evidence before the committee.²

1.12 The majority report notes that this is not the first time actions by a specific industry have been the basis for a “trigger” under the Act. Nuclear actions have been subject to federal regulation under the Act since its inception.

1.13 Despite acknowledging that many farmers believe that this Bill may benefit farmers, the National Farmers Federation (NFF) has failed to support the Bill on the grounds that at some stage in the future this mining-specific water trigger could be

1 Dr Glen Walker, Commonwealth Scientific and Industrial Research Organisation, *Committee Hansard*, 7 February 2012, pp 13–14.

2 Mr Nigel Parratt, Queensland Conservation Council, *Committee Hansard*, 7 February 2012, p. 8.

extended to agriculture. Any such change would naturally have to pass through parliament and as such this seems like a rather misplaced concern. We consider this Bill could deliver significant certainty and safety for Australian farmers and we are surprised and disappointed that the NFF doesn't consider federal protection of Australian surface and groundwater from mining activities as aligning directly with the interests of their membership.

1.14 It was also raised that the current reforms in this area are adequate. Recent commitments to reform include a national harmonised regulatory framework for coal seam gas through the Council of Australian Governments (COAG), and the agreement made between Prime Minister Gillard and Mr Tony Windsor MP of November 2011 in regard to securing parliamentary support for the Mineral Resources Rent Tax. This agreement involves the establishment of an Independent Expert Scientific Panel to commission bioregional assessments of water resources in priority areas, and provide scientific advice to state governments in regulating (particularly) CSG and major coal mining projects.

1.15 While the Greens wholeheartedly support steps that ensure far better science is available to inform decision-making in relation to all mining activities, we believe these reforms and the bioregional assessments would result in stronger outcomes for our environment and the agricultural sector if the federal government also had legislative responsibility for protecting our surface and groundwater. It is simply not enough to rely on States agreeing to sign up to higher, nationally consistent standards for regulating these industries, and to act on the advice of a federally funded expert body, given state governments' poor track records in protecting our water to date.

1.16 The Greens are also concerned at the timeframe for rolling out such arrangements through each and every state legislature, when we are faced with the rapid expansion of diverse mining activities across Australia - particularly CSG. As noted in the inquiry's hearings by NFF, COAG processes are notoriously laborious.³ This is supported by the National Water Initiatives 3rd biennial assessment released last year which found that many important actions under the NWI are not complete, that political commitment and leadership have been variable, and bureaucratic processes at the COAG level have been slow and lacking in transparency.⁴

1.17 We consider that the federal government must play a role in protecting our water from mining and coal seam gas now, which is what this bill will achieve.

1.18 Lastly we note the agreement between Prime Minister Gillard and Mr Windsor MP set out that if COAG is unable to finalise a National Partnership Agreement at its first meeting in 2012, then the Commonwealth will introduce a

3 Ms Deb Kerr, National Farmers' Federation, *Committee Hansard*, 7 February 2012, p. 2.

4 The National Water Commission (2011) *The National Water Initiative—securing Australia's water future: 2011 assessment, Executive overview*, p. 5
(www.nwc.gov.au/__data/assets/pdf_file/0006/17385/2011-BiennialAssessment-ExecutiveOverview.pdf)

Commonwealth trigger to assess the cumulative impacts of extractive industries on water resources. This is an important commitment but we would like to see it implemented both promptly and properly - that's what this bill will do.

1.19 The Australian Greens believe our precious surface and groundwater resources need and deserve federal protection. This is what this bill proposes.

Recommendation 1

1.20 The Australian Greens recommend that this bill be passed.

Senator Larissa Waters