

**Lock the Gate Alliance**

**Submission to the Select Committee into Certain Aspects of  
Qld Government Administration related to Commonwealth  
Government Affairs**

**November 2014**

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## Introduction

Please accept this as a submission from Lock the Gate Alliance to the Select Committee into Certain Aspects of Qld Government Administration related to Commonwealth Government Affairs. The submission is split into six sections which match the six relevant sections of the Terms of Reference which apply to coal and gas mining operations and regulation in Qld.

We make various suggestions below for recommendations that the Committee could make on this issue, that fall within Federal Government and parliamentary powers. Over-arching all these specific recommendations is a request that the Committee considers recommending a more far-reaching independent inquiry or a Royal Commission into mining and politics in Qld.

## Recommendations

We make the following recommendations relating to environmental powers held by the Federal Government under the EPBC Act:

- That the Committee recommend an independent review be undertaken of the assessment processes undertaken bilaterally for all approved coal seam gas projects and the Alpha and Carmichael coal mines in the Galilee Basin, with a review to ensuring that the blunders and omissions in these processes are not repeated.
- That a review be undertaken of the coal seam gas projects already up and running in Queensland regarding their compliance with Commonwealth approval conditions and their impacts on matters of national environmental significance, including water resources.
- That the Department of Environment review all of the post-approval changes that have been made to coal seam gas projects, LNG terminals and coal mines in Queensland, with a view to adopting more stringent policies regarding modifications to approval conditions.
- That the bilateral assessment agreement between the Commonwealth and Queensland be amended to ensure that if adequate study, data collection and assessment has not been undertaken at the Queensland level, there is a trigger for the Commonwealth to withdraw from bilateral assessment and compel proponents to undertake dedicated EPBC assessments.
- That a full region-wide water balance and cumulative impact assessment of the groundwater and surface water impacts of five approved Galilee Basin coal mines be conducted prior to any work being done to begin these mines.
- That the commonwealth initiate a COAG process to review the impact of existing and proposed coal and unconventional gas mining on the Great Artesian Basin, with particular reference to the adequacy of Queensland laws and Departmental resources to safeguard this precious and ancient water source.
- That all mining projects in Queensland be required by conditions imposed on their EPBC approvals to ensure water infrastructure and flood mitigation infrastructure can withstand 1 in 1,000 year floods, and that all existing EPBC approvals for coal and gas mines in Queensland be reviewed and modified to comply with this standard.
- That the Commonwealth formally oppose the Queensland Government's *Water Reform and Other Legislation Bill 2014*.

- That the EPBC Act be amended to allow third parties to legally challenge the merits of the Minister’s decisions regarding approvals for actions that have a significant impact on matters of National Environmental Significance, and that improvements are made to Federal environment laws to better protect water resources and other nationally significant values through exclusion zones, to require cumulative assessments and to set strict criteria on decision-making.
- That an audit be conducted of Make Good agreements in Queensland.
- That the Commonwealth collaborate with Queensland on the preparation of a thorough State of the Environment report for that State, with an emphasis on rehabilitation statistics, including addressing each of the ten questions raised in this submission (see section “Lack of monitoring and auditing”)
- That the Commonwealth conduct a thorough review of the arrangements for post-mining rehabilitation and clean-up in Queensland and the financial and other arrangements for this.
- That the Commonwealth prevent the dumping of dredge spoil in the Caley Valley Wetlands and begin action to permanently protect the area from development.
- That the Commonwealth investigate the failure of the Federal Department to consider the Colton coal mine a controlled action under the EPBC Act 1999.
- That the Commonwealth clarify and confirm a position that mining, oil and gas development, including pipelines and other infrastructure, will not be permitted in or adjacent to World Heritage sites.
- That the Commonwealth use its Federal role and powers to compel a root and branch reform of the legislation supposed to assess and protect environmental matters from resource projects in Queensland, and initiate major improvements to Queensland laws to protect water, air quality, World Heritage, farmland and objection rights.

In relation to addressing international human rights obligations, we recommend that the Commonwealth markedly improves the National Environment Protection Measures to better control dangerous coal dust emissions and to regulate unconventional gas emissions, and puts in place standards for Health Impact Statements and baseline monitoring through a COAG process, as well as a national standard for exclusion zones around all residential dwellings.

We recommend that the Commonwealth conducts a thorough review of the efficacy of cultural heritage protection measures and takes step to far better protect Indigenous cultural sites and values in accordance with the wishes of Traditional Owners. We encourage the Federal Government to make a strong, formal commitment to free, prior and informed consent processes for Indigenous communities before mining projects are approved under the EPBC Act 1999.

We also recommend that the Commonwealth create a Federal Independent Commission Against Corruption and Misconduct with investigative powers to examine the conduct of public office holders around the country.

Lastly, we encourage a COAG process for political transparency, accountability and the restoration of trust be launched which considers the following:

1. New Commonwealth wide controls on political donations so that the movement of money between party groups in different jurisdictions is prevented, and scrutiny and disclosure maximised
2. Donations to State and Federal party groups from mining companies with projects seeking

approval under bilateral arrangements between the Commonwealth and one of the states are prohibited.

3. New Commonwealth-wide codes or legislation that prevents public servants and political servants from moving into private sector roles that are related to their Government work unless there has been a substantive cooling off period, and the implementation of strict codes of practice on lobbyists.

## Executive Summary

The following points summarise our submission:

1. The approval process for the development of mining projects for the export of coal and unconventional gas resources administered under a bilateral agreement with the Commonwealth is inadequate to address the risks these industries pose or provide a fair go to landholders and communities:
  - Recent changes to the law have removed or severely diminished the rights of community groups and neighbouring or other affected landholders to object to mining projects in court.
  - Other proposed changes will remove the requirement for coal mining companies to obtain water licences for the groundwater they extract during mining operations, thus allowing unsustainable take and posing a major risk to adjoining landholders.
  - Existing laws force landholders to sign conduct and compensation agreements, effectively under duress. So-called 'make good' agreements to compensate landholders for existing reliable sources of water are vastly inadequate.
  - The Galilee Basin State Development Area in Central Qld was declared before full approval of proposed coal rail lines was given, pre-empting the environmental assessment approach and giving mining companies the upper hand in negotiations with farmers to compulsory acquire land to build the rail corridors.
  - The Co-ordinator General is part of the Dept of State Development, Infrastructure & Planning but has important environmental approval powers. There is no adequate check on the decision-making power the role holds, and that power has actually been increased by recent law changes.
  - The repeal of the Qld Wild Rivers Act has opened up the Channel Country to the possibility of extensive, industrial shale gas mining with major risks to scarce groundwater resources.
  - The Queensland Government does not require companies to provide adequate funds to rehabilitate land post-mining, only 55 hectares has ever been signed off as adequately restored, and there is a looming multi-billion dollar public liability for rehabilitation of mining sites.
2. Qld Government policies and practices are inconsistent with Australia's obligations under international environmental law. In particular, there are examples of inconsistency with the World Heritage Convention, the Ramsar Convention, and international migratory bird agreements and conventions. These include:
  - Ramsar Convention: Plans to discharge untreated mine wastewater from the proposed Colton coal mine directly into the Mary River, just upstream of the Ramsar-listed Great Sandy Strait estuary.
  - World Heritage Convention: Recent development of three LNG export terminals and one new coal port, and proposals for further coal ports, within the Great Barrier Reef World

Heritage area. Discharge of mining wastewater into the Fitzroy River catchment, which flows into the Great Barrier Reef.

- Migratory Bird Agreements: Proposals to dump dredge spoil from the proposed Abbott Point coal terminal expansion on the Caley Valley wetlands, which provide important habitat for up to 40,000 waterbirds, many of them listed on international migratory bird agreements.
3. It is inappropriate for the Federal Minister for the Environment to delegate his approval powers to the Qld State Government under the EPBC Act 1999, because:
- It is placing at risk nationally significant water resources, which are important to the entire continent and its people and landscapes.
  - The Murray Darling Basin, for example, is subject to discharge of treated CSG wastewater directly into river systems, leading to likely increases in salt load. There are also concerns that CSG drilling may have contributed to methane 'bubbling' up from the Condamine River.
  - The Great Artesian Basin is also being targeted for both coal and gas mining, with risks of depressurisation and contamination.
  - The Qld Government has even failed to protect drinking water supplies for Brisbane, with recent coal exploration allowed in the Wivenhoe Dam catchment.
  - The Qld Government has a vested interest in obtaining royalties from coal and gas developments, and does not consider cumulative impacts.
  - Qld Government compliance and enforcement practices are effectively useless, with the Qld Audit Office recently releasing a damning report on its failures.
4. Queensland Government policies and practices are inconsistent with Australia's obligations under international human rights instruments, including:
- The International Covenant on Economic, Social and Cultural Rights - The Qld Government is allowing mining companies to impinge on the right to health and an adequate standard of living, including the right to water. The Qld Government has allowed dangerous levels of coal dust pollution near townships such as Jondaryan, and in suburbs of Brisbane located along the coal train corridor. At Tara, the Qld Government has forced landholders to live in a gasfield, with subsequent health effects, without any prior Health Impact Assessments, appropriate buffer zones, baseline health testing or ongoing monitoring. Landholders and communities are losing reliable groundwater because CSG companies are dewatering the Walloon coal measures.
  - The UN Declaration on the Rights of Indigenous Peoples - The Qld Government allows mining without requiring free, prior and informed consent by Indigenous Traditional Owners, and without ensuring the right of Indigenous people to maintain and protect cultural property, and the right to religious and cultural sites. Indigenous people have raised serious concerns about losing access to their land and damage to important sites at locations such as near Tara, and on Curtis Island.
5. Other matters which we believe the committee will consider as relevant to this inquiry include the corruption and perversion of good governance in Qld and the undue influence of the mining industry on our democratic processes. In particular:
- Very large political donations from the mining industry apparently leading to favourable policy decisions
  - The revolving door between the Qld Government and the mining industry without any cooling off period eg. a number of high-ranking staff from the Co-ordinator Generals office

and other departments have left to take up direct jobs with the mining industry or their representative bodies, and numerous mining executives have moved directly to high level roles in the Qld government.

- The extraordinary access which mining industry lobbyists have to Qld politicians eg. QCoal's corporate affairs chief allegedly in charge of developing the LNP environment policy since 2012.
- The manifest inadequacy of the powers of the Crime and Corruption Commission and its failure to investigate referrals relating to the approval of CSG projects and export terminals.

6. We provide the following information pertinent to your inquiries into, and report on, the adequacy of Commonwealth oversight of the approval of coal seam gas projects in Queensland. The assessment of the big 3 CSG projects approved in Qld in 2010 (APLNG, GLNG, QCLNG) was inadequate because:

- A cost benefit analysis was not conducted of the LNG export terminals on Curtis Island prior to their approval. Recent studies have shown that the approval of those terminals, without any protection for domestic consumers from the subsequent world-parity price shock, will cost Australian households \$544M per year and industrial users up to \$3.2B per year.
- The projects were approved despite massive uncertainty about the impacts on groundwater and on matters of National Environment Significance, and without any plan for how hazardous salt waste products would be managed.
- The scale of the projects, the lack of details contained in them, and the uncertainty in relation to impacts is unprecedented in our experience of EPBC approvals. The approval of these projects effectively changes the nature of the EPBC Act from one of detailed impact assessment to adaptive management.

## Approval process for resource projects

The terms of reference, item 1 (c) ask the Committee to examine the “approval process for the development of projects for the export of resources or services insofar as they are administered by the Commonwealth or under a bilateral agreement with the Commonwealth.”

The whole system of environmental regulation of resource industries in Queensland is broken and has been for many years. The legislation covering resource projects is so heavily weighted in favour of the proponents that it is virtually impossible for other stakeholders to have any hope of having their concerns properly addressed. There has never been a coal mine in the history of this state that has been through the approvals process and rejected on environmental grounds. Instead of attempting to remedy this, the Newman government has taken a chainsaw to the ramshackle system under the cloak of removing “green and red tape” leaving the observer to believe that the Newman government must consider the public interest to always and completely align with the private interests of the developers. In short, Newman government has reduced environmental regulation to a low level that has not been seen in Queensland for decades.

Those areas of the regulatory framework which are most weighted against other stakeholders and the environment include:

1. Queensland’s land access legislation and “make good” agreements weighted in favour of mining interests.

2. An inadequate process for environmental impact assessments of resource projects and the approvals process for resources projects, especially those undertaken by the Coordinator-General and the removal or severe reduction of the rights of community groups and neighbouring or other affected landholders to object to mining projects in court
3. The lack of monitoring and auditing of the performances of companies and the state of the environment impacted by mining
4. Petroleum laws which have handed CSG companies the right to take water without obtaining water licences, and dewatering beneficial aquifers in the process.
5. Lack of enforcement of conditions of the projects' environmental authorities and of companies' requirement to rehabilitate land disturbed by resource extraction.
6. Removal of the requirement for coal mining companies to obtain water licences for the groundwater they extract during mining operations, thus allowing unsustainable take and posing a major risk to adjoining landholders.

With regard to the last point, this is one of several pieces of new legislation introduced under the current government that significantly worsens the oversight and control of resource projects in Queensland that have a Commonwealth interest.

The environmental impact statements (EIS) process in Queensland badly needs to be overhauled to adequately mitigate the social, economic and environmental impacts of resource projects. EISs are usually required by high-impact resource projects and come under one of two pieces of legislation.

a) Under the *State Development and Public Works Organisation Act 1971 (SDPWO Act)* by the Qld Coordinator-General.

b) Under the *Environmental Protection Act 1994 (EP Act)* by the Qld Department of Environment and Heritage Protection.

Both of the above pathways can be bilaterally accredited as assessments for matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. As per the terms of reference, we have restricted our comments here to projects that have been assessed bilaterally, and the Commonwealth's role in preventing, or not, the impacts of those projects.

The Bligh Labor government's go-ahead for CSG in 2010 revealed many of the weaknesses in the system of environmental impact assessment and the approvals process. However, instead of addressing the deficiencies in the system, the Newman government has worked to undermine the threadbare protections for the community and the environment which were contained in that system.

Coordinated projects under the *SDPWO Act* which the CG deems a "medium risk" can be exempted from the need to undertake a full EIS and will instead be allowed to submit a much less rigorous Impact Assessment Report (IAR). This has no logic. The CG takes on projects of state significance and so the chances are that a resource project assessed by his department would, almost as a matter of course, be one of high environmental and social impact. The CG does not even have to notify the public whether a draft IAR will be done.

The Newman government has changed the process of mining objections so that only local councils and "affected" landholders can object to a mining lease and then only on limited grounds. Government spokespersons continue to insist that the public still has appeal rights on the Environmental Authority (EA) for those mines with the highest environmental risk but an

amendment to the legislation, the Minerals and Energy Resources (Common Provisions) Act 2014, at 11.57 pm on 9 September, 2014 gave the Coordinator-General the power to condition all resource projects that it assesses and removed appeal rights from those Environmental Authorities. In summary, the biggest and highest-impact mining projects in the state need no longer have to do a full EIS and the general public cannot object to and have appeal rights over any part of the approval process. The Newman government has effectively removed a democratic right that Queenslanders have had for over four decades.

The current Federal government is proposing to give away its approval powers to the states, including Queensland. The Commonwealth's role in the approvals process is to review impacts on Matters of National Environmental Significance such as water resources, World Heritage properties and threatened species and threatened ecological communities. The Commonwealth has always given a separate approval to the states regardless of whether it does its own EIS or uses the State one but, if the Federal Government gets its way, these powers will be devolved to the Queensland Government which has removed so many of the regulatory hurdles which were the only protection for the public interest. Both the Abbott and Newman governments have made the judgment that the private interests of the resource companies is the same as or compatible with the public interest – a ludicrous concept.

### Failures in assessments

The experience of the community is that community consultation processes for coal seam gas and mining projects are almost entirely tokenistic, and are used to merely tick a box and get on with approving a project. There is a lot of complaint from mining companies about lengthy and complex assessment processes, but from a community perspective it is the poor quality and bias in the process, where consultants working directly for mining companies conduct the assessments, which is most at issue.

Lock the Gate regularly makes submissions on Environmental Impact Statements for coal mines in Queensland that have been accepted by the Department of Environment and Heritage Protection for public exhibition despite being riddled with errors, contradictions and omissions. It should not be the task of community groups to trawl through multi-volume documents like this and correct mistakes and fill holes. We believe that the Department of Environment and Heritage Protection is not equipped with sufficient staff to adequately undertake its statutory obligations regarding assessment of highly damaging coal and unconventional gas projects, and that legislative changes that put unreasonable deadlines on the Department have translated into even poorer outcomes for communities and the environment they depend on.

In our experience, delay in assessment and decision-making frequently occurs as a result of proponents failing to meet criteria and guidelines laid out for assessments, and generally showing contempt for the process. This has been the case for three of the large new mines proposed in the Galilee Basin: the Galilee Coal Project, the Alpha Coal Project and Carmichael coal project. Each of these will have devastating impacts on groundwater, surface water and biodiversity, and each is proposed in a region where very little formal study of groundwater hydrology and biodiversity had previously been done. Naturally, in order to evaluate the environmental impacts of these proposals, a great deal of information and data needed to be gathered on the geological formations that hold

and affect groundwater in the region and on the vast areas of remnant woodland and forest slated to be cleared for the mines, much of which had never been surveyed.

Similarly, the 2010 approvals of the three Queensland CSG/LNG projects revealed how flawed the EIS and approvals system is when conducted by the pro-development Coordinator-General's office. EISs are supposed to be drawn up according to terms of reference but they are conducted by the company or a consultancy employed by the company, consultants feel under pressure to avoid asking too many difficult questions of a project and there is often great political pressure placed on the public servants assessing these documents to get them done as quickly as possible, often without anything like an adequate analysis.

### Galilee Basin mines and infrastructure

Four Galilee Basin coal mines have now been approved by the Queensland and Federal Governments, and yet, more than two years after the first approval was issued, neither the proponents nor the Government have done the work to establish baseline data on groundwater and conduct a regional water balance study to estimate the cumulative impact of these mines on groundwater.

The much-discussed "stop the clock" of the Alpha coal mine assessment occurred as a result of the failure of the proponent of the mine to accept that in order to clear the bush, they were first required to understand and describe the values present in it. The Federal Environment Department repeatedly outlined for the proponent of that mine the requirements for threatened species surveys and other assessment essentials, and that the proponent repeatedly failed to meet these requirements. Eventually, after five different sub-standard assessments were prepared for EPBC protected matters the Federal Government capitulated, and gave approval to the mine. The conditions attached to the approval, however, still require of GVK Hancock that they complete the threatened species surveys, and to date, we are not aware that this has occurred.

The Carmichael coal project in the Galilee Basin is the largest coal mine ever proposed in Australia. It would comprise six open-cut pits and five longwall underground mines, covering an area 25km long and 12km wide, straddling the Carmichael River, in the remote Galilee Basin, in Central Queensland. The mine is proposed to produce an average of 40 million tonnes of coal per year over 60 years. As for Alpha, there were major flaws and omissions in the environmental assessment for this mine, including repeated failure by the proponent to conduct adequate threatened species surveys, poor modelling of water impacts. The Independent Expert Scientific Committee drew attention to data gaps in the groundwater modelling, which called into question the company's claim that it will not have an impact on the recharge of the Great Artesian Basin (GAB). The Committee also raised concerns about the impact of the project on important springs in the vicinity of the project, the Doongmabulla Springs and the Mellaluka Springs, saying, "The Committee has little confidence in the capacity of the groundwater flow model to predict the impact on these Spring Complexes."

There are two large dams proposed for either side of the Carmichael River that will hold mine-affected water, contaminated with hydrocarbons and suspended solids, which have been assessed as being at high hazard level for overtopping and catastrophic failure, or dam break. The mine was approved by both the State and Federal Governments despite a dam hazard assessment, which states that "due to the current stage of the project further testing analysis and design will be required."

These dams will only be designed to contain 1 in 100 year level floods. Having seen the terrible impact of the 2011 floods on mines that did not have infrastructure to withstand 1 in 1000 year events, we consider this to be irresponsible. In statistical terms, over the 60-year life of this mine, there is a 45% chance that a 1 in 100 year storm or greater will occur. Previous assessments of the mine have revealed that the on-site sediment dams will be overflowing more than 10% of the time in many years<sup>1</sup>, and the dams holding mine-affected water will discharge thousands of megalitres of water into the Carmichael River during most of the life of the mine.<sup>2</sup>

The Galilee Basin State Development Area in Central Qld was declared before full approval of proposed coal rail lines was given, pre-empting the environmental assessment approach and giving mining companies the upper hand in negotiations with farmers to compulsory acquire land to build the rail corridors.

## Gasfields

Simone Marsh, an environmental specialist employed by the Coordinator-General in 2010 to assess the EISs submitted by the GLNG (Santos) and QCLNG (BG Group) projects, reported she was under extreme pressure from the State Government to get her assessment finished as quickly as possible, to ignore the fact that swathes of vital information like underground water modelling and mitigation measures for underground water impacts were missing and that site-specific impacts were missing from the projects' Environmental Management Plan so as to achieve a "bankable outcome" for the proponents.

In fact, the assessment processes were so poor, that they seem to have breached specific sections of the relevant Acts, namely s310D and 310N of the *Environment Protection Act 1994* (Qld). The Federal Government should have processes in place to review state assessments which can lead to revocation of bilateral assessment agreements if those assessments are shown to be inadequate or in breach of relevant state laws and regulations.

As for the Galilee mines, baseline studies for the biodiversity and water impacts of these projects were not provided. Details of the land on which activities were to be carried out were not provided (detailed infrastructure mapping was withheld), nor was the location of wells. Thus the potential adverse impacts of the activities (individually or cumulatively) on the environmental values were not provided.

Given the cumulative volumes of greenhouse gases to be emitted, groundwater to be removed, contaminated water to be brought to the surface, and the areas of vegetation and land to be contaminated, it is difficult to imagine that, in deciding the applications, the Administering Authority gave consideration to the Standard Criteria. Given also that the costs were not calculated, it is difficult to imagine that the principles of ESD, as outlined in the National Strategy for ESD were properly considered.

The Coordinator General's report for the Santos GLNG gasfield and pipeline in May 2010 made it clear that the Federal Department of Environment had told the Queensland Coordinator General that the assessment material did not mention EPBC listed species and communities: "DEWHA has stated that there remains a need for the proponent to specify and describe EPBC listed flora and/or threatened ecological communities for the GLNG project."

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<sup>1</sup> Carmichael Mine and Rail Project SEIS (Nov 2013) Updated Mine Hydrology Report. p.61-64.

<sup>2</sup> Carmichael Mine and Rail Project SEIS (Nov 2013) Updated Mine Hydrology Report. p.59.

For EPBC listed communities, the Coordinator General acknowledged that “it is unclear whether water storages, water treatment infrastructure and irrigation areas have been included, nor what areas of disturbance have been assumed for these infrastructure items and activities” and so he recommended the approval of the project on the basis of a “reasonable worst case” guess at how much of three nationally threatened ecological communities would be cleared. Instead, he made conditions that specified all of the work that needed to be done before construction could commence. This work, in our view, should have taken place during the assessment, and includes threatened species surveys, brine management plans, details of the locations of water infrastructure, a groundwater model and an assessment of the impact of the gasfields on springs. For projects assessed bilaterally, the release of the Coordinator General’s report starts the clock ticking on the decision by the Federal Environment Minister. This meant the Federal Minister was forced to either also give approval without the basic information needed to understand the impact of this huge project, or delay the project. Federal Government’s EPBC approval for the gasfield component of the project was granted in October 2010.

This is not an isolated example: a very similar approach was taken for the assessment and approval of QGC’s coal seam gasfield. QGC significantly increased the scale of the Queensland Curtis LNG project during the final stage, proposing a doubling, tripling and even twenty-fold increases in major gas field disturbances, waste products and land contamination. This increased scale significantly increased environmental, health, safety and economic risks and increased the short-term and long-term liabilities. The SEIS provided no detailed mapping of locations of gas field infrastructure nor baseline environmental data for the additional disturbances.

Similarly, the impact of the project on water resources was not adequately assessed. The Coordinator General said of the GLNG gasfield proposal that “The CSG water management strategies presented are not comprehensive enough to determine that they are adequate in preventing environmental impacts” and yet he gave approval anyway. The water trigger did not exist when these projects were determined, but there is a strong argument for the Commonwealth to intervene and act now to prevent further depletion of groundwater by the coal seam gas industry in southern Queensland.

Regarding clause (2) of the terms of reference, on the adequacy of Commonwealth oversight of the approval of coal seam gas projects in Queensland, we believe there is a strong argument for a full audit of the water that has been removed in the course of coal seam gas production in Queensland, and its disposal, and intervention by the Commonwealth to prevent the *Water Reform and Other Legislation Bill 2014* from worsening already reckless and irresponsible legislative oversight of the impacts of coal seam gas and coal mining on water in Queensland.

### Post-approval changes to projects

Failure by proponents to conduct baseline modelling, biodiversity surveying and other basic assessment data gathering has led to a pattern of approvals being given that require further reports, plans and assessments to be conducted. Frequently, after these approvals are given, the proponent seeks and secures changes to the approval conditions to extend deadline or weaken conditions.

Here are some examples of Commonwealth acquiescence to changes to mining projects in Queensland:

- The Federal approval for Santos' Surat and Bowen coal seam gas fields around Emerald, Roma and Taroom has been changed nine times since Santos secured it in October 2010. The first four successive changes granted repeated extensions for the completion of a Water Monitoring and Management Plan, originally supposed to be completed within 12 months of the date of approval, as each deadline was missed. The next five changes amended the limits for the total amount of endangered ecological communities that are allowed to be cleared for the project.
- The Federal approval for APLNG's CSG field in the Surat Basin has been changed six times since it was given in December 2012. As for Santos' gasfield, the condition changes have included two extensions of the deadline to complete the Water Monitoring and Management Plan, two extensions of the deadline to secure biodiversity offsets.
- QGC's CSG field has had its approval amended six times since it was given in October 2010 including extensions to the deadline for its water monitoring and management plan. One of these amendments wholly replaced eight conditions that specified monitoring, assessment, response triggers, plans and actions the proponent was to have done in Stages 1 and 2 of the Water Monitoring and Management Plan and put off large and significant parts of this work to a new "Stage 3" of the plan, to be completed at a later date. The most recent amendment of this approval was last month, and extended again the deadline for securing biodiversity offsets for the project to "within 44 months of the date of approval" because the proponent has still not fulfilled that condition.

### Land Access Code and Make Good Agreements

Existing laws force landholders to sign conduct and compensation agreements (CCA), effectively under duress. S805 (1) of the *Petroleum and Gas (Production and Safety) Act 2004* states:

A person must not, without reasonable excuse, obstruct a petroleum authority holder from—(a) entering or crossing land to carry out an authorized activity for the petroleum authority if chapter 5, part 2 or 3, to the extent the part is relevant, has been complied with in relation to the entry; or

(b) carrying out an authorized activity for the petroleum authority on the land.

The landholder (or others) who do not want a coal seam gas company that has an Authority to Prospect (ATP) or Petroleum Lease (PL) to enter their land and attempts to stop them from doing so is liable for a maximum \$50,000 fine. It should also be pointed out the landholder has no say in whether or not an ATP can be placed over their land and no parity in negotiating access to the company. This legislation and the Land Access Code stipulate the landholder must negotiate access by the company. If, after a short, prescribed period of time, the parties cannot reach an agreement, then the resource company has the right to take the landholder to the Land Court to secure a Conduct and Compensation Agreement. A 2013 committee recommended some minor changes to this code but the major problem remains: the landholder has no right to refuse access to their land.

Even when a Conduct and Compensation Agreement has been signed by the parties, the landholder is often faced with companies or contractors that will not adhere to the conditions of the contract. One of the most common complaints is that companies will not take the time to wash down vehicles that are coming on to the property. This is necessary to keep weeds from spreading. Landholders also complain about such practices as cutting fences without permission, leaving gates open and so on. These are all part of the agreement but, as with so many other parts of the regulatory system, are not enforced and the landholder constantly having to resort to legal action is difficult and costly.

Affected landholders we have spoken to report that the Gasfield Commission, which is supposed to monitor these agreements and work to ensure the proper operation of the terms of agreement, is of little help and usually sides with the CSG company. This is hardly surprising. Almost all members of that commission are beneficiaries of the industry and some have substantial business interests in CSG.

This unjust system has forced many Queensland landholders to “lock their gates” to the CSG companies.

Another key issue for the survival of many landholders is the “make good” system whereby a coal seam gas company is obliged to make good if a landholder loses or is likely to have their water supply from a bore impaired by CSG activities. Eighty-five landholders are expected to be affected immediately because they draw bore water from the coal seam aquifer, the Walloon Coal Measures. This is an extraordinary and unprecedented situation - the Qld Government has allowed the CSG industry to directly dewater the beneficial aquifer that these landholders have used for a very long time. Several hundred more bores are likely to be affected over the coming years.

There is a meagre 7000 ML/pa of underground water left unallocated in General Reserve across the entire Surat Basin management area. This can only come out of the Hutton & Precipice aquifers since the Walloon Coal Measures will be largely drained in CSG extraction. The current stock and domestic usage in the Walloon Coal Measures is 9040 ML/pa. There is clearly inadequate alternative aquifer water available for “make good” through like for like bore water replacement.

The Hutton and Precipice aquifers are part of the Great Artesian Basin. The Hutton aquifer is facing a double threat - depressurisation as a result of CSG extraction from the Walloons, and direct extraction as 'make good' for water lost from the Walloons. It's been estimated that the Hutton aquifer may experience 10m draw down as a cumulative effect of coal seam gasfields in the Surat Basin.<sup>3</sup>

There is clearly inadequate alternative aquifer water available for “make good” through like for like bore water replacement. Many of those landholders currently affected are reporting great difficulties in these negotiations because new bores are extremely expensive and the companies are reluctant to spend \$1 million plus on drilling deeper to find water and are trying to get landholders to agree to much less acceptable alternatives like new dams. If new bores have to be drilled into the fully allocated lower levels of the Great Artesian Basin, like the Hutton and Precipice aquifers, the “make good” arrangements could easily become a disaster for farmers.

For the Commonwealth, the mismanagement by Queensland of the water resources of both the Great Artesian Basin and the Murray Darling Basin to facilitate coal seam gas development requires scrutiny and intervention.

Under the terms of Queensland's *Petroleum and Gas (Production and Safety) Act 2004*, coal seam gas companies have a statutory entitlement to take groundwater that must to be removed in order for them to access coal seam gas without the need to obtain water licences. As discussed above, this concession is likely to soon be extended to coal mines as well. The effect of this could entirely undo the last decade of effort to return the Great Artesian Basin to a sustainable level of extraction, and may not be felt for years to come. The poor quality of the assessment effort for the Queensland gasfields and the Galilee Basin coal mines, in combination with poor resourcing for compliance and

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<sup>3</sup> Moran 2010. “Assessment of impacts of the proposed coal seam gas operations on surface and groundwater systems in the Murray-Darling Basin.”

enforcement and bad legislation has essentially given the mining industry a blank cheque, and the Great Artesian Basin is under siege as a result.

### Legislative changes

A series of legislative changes by the Queensland Government in the last two years have severely eroded public rights and protections when it comes to assessment and decision-making around large-scale resource projects that are undertaken under a bilateral agreement with the Commonwealth.

These are:

- The *Water Reform and Other Legislation Amendment Bill 2014*. This Bill is currently before parliament and could be passed as soon as next week. It will give coal mining companies statutory entitlement to take billions of litres of groundwater without licences, as well as the right to divert and interrupt surface water.
- *Mining and Energy Resources (Common Provisions) Act 2014*. This Act was passed by the parliament in September. It will effectively protect mining projects assessed by the Coordinator General from being challenged in the Land Court, and prevents anyone but affected landholders from challenging any other mining project.
- *Regional Planning Interests Act 2014*. This Bill was passed in March this year and repealed the Strategic Cropping Land Act, replacing it with a weak system that is riddled with loopholes and will not protect high quality farmland from destruction by coal mining.
- *Greentape Reduction Act 2012* commenced in March last year and has forced the Department of Environment to deal rapidly with an increasing number of projects with a depleted workforce.
- Fitzroy River “pilot” water release scheme. This so-called “pilot program for enhanced mine water release” was in fact a capitulation to the demands of coal mining companies to lift restrictions on dumping of large volumes of polluted water into the creeks and rivers of the Fitzroy catchment to dispose of legacy flood water held in their pits in part due to their, and the Government’s, poor flood planning and mitigation measures.

Some detail on each of these changes and their negative consequences is provided below.

### Water Reform and Other Legislation Bill 2014

The *Water Reform and Other Legislation Amendment Bill 2014* was introduced into Queensland parliament in September and could be passed next week. With this Bill, both coal and unconventional gas mining will be exempted from the volumetric water planning that has been developed over the last decade to balance the many competing demands on our precious water. This change will materially impact on clause (2) of the terms of reference, on the adequacy of Commonwealth oversight of the approval of coal seam gas projects in Queensland.

Coal mines will be given entitlement to take all the groundwater that flows into their pits without the need to obtain licences for this water, a concession that gas producers in the Surat Basin already enjoy. We suspect that the changes are in part being introduced to facilitate development of the coal mines in the Galilee Basin, and several in the Bowen Basin, that have been unable to obtain water licences under the current system, because the water is not available. Based on the companies’ own assessment materials, the overall volume of groundwater ingress into the five

Galilee mines with completed environmental impact assessments could be between 700GL and 9,253GL over the life of the mines<sup>4</sup>. Through extrapolation of the modelling and estimates provided by the assessment reports for the five Galilee mines that have been assessed, a report commissioned by Lock the Gate Alliance has estimated the overall potential removal of groundwater for Galilee mining proposals to be in the order of 1,522GL<sup>5</sup>, including some extraction from the Great Artesian Basin.

We do not believe that these companies would be able to secure licences for this amount of water if the playing field were level and they were required to comply with the rules and caps by which all other water users must abide. The list of concessions being offered to the companies behind these mines is out of all proportion with the economic benefits they offer. These include compulsory acquisition of land for railways and royalty discounts for the first company to actually build one of the mines. In addition to all the gifts these companies have already been given, the Government is proposing with this Bill to allow them, and all other coal companies this blanket entitlement to remove huge quantities of groundwater. In the region where these mines are to be built, groundwater maintains the beef industry and the towns, it feeds the rivers, and keeps the bush alive.

There are other current mine proposals that at present simply could not proceed unless they can acquire a water allocation. For example, the Coordinator General's report for the Byerwen Coal mine notes that *"The project is dependent upon the ability of the proponent to acquire an allocation of water (4500 megalitres per annum (MLpa)) from externally sourced water over the 50-year life of mine."* Instead of the Qld Government concluding from this that such mines should not proceed, they are going to give them our water resources so that the mines can go ahead regardless of their water impacts.

#### [Mineral and Energy Resources \(Common Provisions\) Bill 2014](#)

The *Mineral and Energy Resources (Common Provisions) Bill 2014* was passed by Queensland Parliament in September this year and has severely curtailed the rights of Queenslanders to object to mining projects. For projects that are coordinated by the Coordinator General, this Bill will make it virtually impossible to object to a project in the Land Court. This fundamental right, which is a crucial regulatory check against corruption, poor decision making and human error in the assessment and decision process has left Queenslanders powerless against large and ruthless mining companies. For other mining projects, objection rights are now limited to the landholders directly affected by the mine, regardless of the effect on neighbours, regional economies and the broader community.

#### [Regional Planning Interests Act 2014](#)

This new legislation repealed the Strategic Cropping Land Act, thereby removing the State's only statutory protection for high quality cropping land. For all its flaws, the Strategic Cropping Land Act at least made clear that it would not be possible to obtain approval for an open-cut mine in mapped SCL in a Strategic Cropping Land protection area. The new Act purports to protect "priority agricultural areas" but there are a swathe of exemptions in the Bill, which will save mining companies from having to have one of the new approvals it creates. Prior to winning Government,

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<sup>4</sup> The width of this range is an indication of the huge degree of uncertainty about just how much groundwater is expected to be needed to be removed for these mines.

<sup>5</sup> *Draining the Lifeblood*. Lock the Gate 2013.

Campbell Newman wrote to the Lock the Gate Alliance to assuage our concerns about the impact of coal and coal seam gas mining on agricultural land and high conservation value areas. In part, the Premier told Lock the Gate, “An LNP Government has made a strong, clear commitment to protect strategic cropping land for the future. An LNP Government: will ensure there will be no open cut mining on strategic cropping land; and won’t allow underground mining, coal seam gas activity or other development on strategic cropping land if it is likely to have a significant, adverse impact on the productive capacity of that land to produce food and fibre in the future.”

### Greentape Reduction Act 2012

The *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012 (Qld)* (Greentape Reduction Act) commenced on 31 March 2013 and is now in force. This Bill introduced statutory deadlines into the Environment Protection Act for issuing Environmental Authorities to resource projects, and also created codes for rapid approval of “low-risk” petroleum exploration, surveying and pipeline activities.

The Queensland DEHP reported that the average assessment timeframe for petroleum activities was halved from 56 business days to 28 days between 2011 and 2013. In the 2012–13 financial year, EHP processed approximately 1500 development applications and all but 10 were completed within statutory timeframes.<sup>6</sup> Over the same period, around 200 staff accept a voluntary redundancy. That Department is now assessing more applications in shorter timeframes with less staff. It is inevitable that this means less attention to detail.

DEHP’s public performance report for 2013 is almost entirely concerned with the timeframe for processing applications for coal and gas projects. The Department has reduced the average assessment timeframe for oil and gas activity from 56 business days in 11/12 to 29 business days in 12/13.

### Fitzroy River “pilot” water dumping

In November 2012, EHP issued amended environmental authorities to four coal mines in central Queensland to allow them to release large volumes of water held in their pits following extensive flooding in the previous two years. The four mines which took part in the pilot were Peak Downs, Goonyella Riverside, Saraji and Norwich Park, all owned by BMA, and the permission to dump this polluted water, untreated, into the Fitzroy system had been a matter of intense lobbying by the mining industry. The move was spun as a “a pilot program for enhanced mine water release” but in reality, it was simply a lifting of pollution limits to allow mines to cheaply dump polluted water, contrary to the conditions of their Environmental Authorities.

The flood management structures on some of the affected mine site were only designed and built to withstand only a 1-in-100 year flood event. During the flooding of the wet season 2010/11, nineteen coal mines in the Fitzroy Basin released water in breach of the conditions of their Environmental Authorities.<sup>7</sup> The Department of Agriculture, Fisheries and Forestry reported in May 2012 on downstream of discharges from the Ensham mine, showing “a number of metals and metalloids

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<sup>6</sup> DEHP Annual Report 2012/13.

<sup>7</sup> DERM update. April 2011. <http://www.fitzroyriver.qld.gov.au/updates/06042011.html>

were recorded in fish, with concentrations greater at the investigation sites compared to the reference sites.”<sup>8</sup>

### Lack of monitoring and auditing

A scathing 2014 report by the Queensland Audit Office into the Environmental Regulation of the Resource and Waste Industries was the first ray of light shone on the topic in two decades. This damning report reinforced everything critics of the industry had been saying about the regulation of mining and environmental compliance generally in this state for the last 20 years.

Drew Hutton, the author of the recently-published [Mining - the Queensland Way](#), made a complaint to the Criminal Justice Commission in 1992 which led to the Matthews Inquiry 1993-94 about illegal waste dumping. This latest inquiry looked at the environmental regulation of mining and came up with very similar conclusions to those in the previous report. It found that:

- There was almost total reliance on companies for data and no analysis of this data by the Department of Environment and Heritage Protection (EHP) as well as this data being "unreliable, inaccessible and often incapable of providing timely and quality information to inform decisions."
- There were little or no proactive inspections and no clear reports of non-compliance. Inspections are almost entirely complaint-driven rather than proactive.
- There was no progressive rehabilitation of mine sites, no inspection of "rehabilitated" sites by EHP and widespread avoidance of doing rehabilitation at all.
- Financial assurances go nowhere near covering rehabilitation costs with no clear criteria for assessing these.

This report essentially says that the system of environmental regulation in Queensland is farcical - a system where the companies regulate themselves. The Government authorities depend on these companies to monitor their own activities, put their hands up if they have committed a breach and rehabilitate the land they have contaminated.

There are hundreds of thousands of hectares in Queensland contaminated by mining, much of which will never be rehabilitated and the gap between the costs of rehabilitation and financial assurances held by government is huge and likely to result in a public liability of billions of dollars.

However, there are a number of additional deficiencies in the system which were not mentioned by the Auditor-General's report. Firstly, the government has no one left in the Contaminated Land Unit of EHP with any expertise. It is simply a desk with a telephone. The Unit had become a virtual mailbox, with no scientifically qualified technical officers remaining and this comes at a time when the state is experiencing the impacts of a mining and coal seam gas boom.

Secondly, the *State of Environment Report* which has to be done every four years has not had any figures on land disturbed by mining since 2007. This is very concerning as this data is vital for calculating the 'financial assurance' (i.e. bank guarantees) required to be lodged with the State. Disturbance data was previously collated from annual reports submitted by mining and petroleum companies. The State's 'financial assurance' policy for mining activities is essentially based around calculations of areas of disturbance, areas of contamination and third-party cost to remediate &

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<sup>8</sup> DAFF (Qld) 2012. *Fitzroy River Fish Pathology Report May 2012*.

[http://www.daff.qld.gov.au/documents/Biosecurity\\_GeneralAnimalHealthPestsAndDiseases/Fitzroy-River-Report.pdf](http://www.daff.qld.gov.au/documents/Biosecurity_GeneralAnimalHealthPestsAndDiseases/Fitzroy-River-Report.pdf)

rehabilitate these areas (i.e. the Rehabilitation Liability). The *State of the Environment Report 2011* did not update figures on total mining or petroleum/gas disturbances in Queensland. Previous reports (2003 and 2007) provided this information. The only reasonable conclusion from all this is summed up in a statement made by the Department of Environment and Resource Management and accessed by Drew Hutton in a Right to Information search: "*... it is unclear how schedules of disturbance for financial assurance calculations will be determined without specific information regarding the scale of impacts.*"

The Newman government should come clean with the people of Queensland and answer the following questions which would go a long way to revealing the appalling state of environmental protection by the state's environmental regulators.

1. What is the total area of disturbance for each of the CSG-LNG projects in Queensland, as at 30 June 2014?
2. What is the total area of contamination for each CSG-LNG project, as at 30 June 2014?
3. What is the total area of land on the State's environmental management register, as at 30 June 2014?
4. What is the total area of land on the State's contaminated land register, as at 30 June 2014?
5. What is the total third-party cost to remediate contamination and rehabilitate disturbance due to CSG activities, as at 30 June 2014?
6. How much financial assurance is currently lodged with Queensland Government for CSG activities?
7. Will the State of the Environment Report 2015 provide updated disturbance and contamination figures?
8. How many 'notifiable activity' notifications has the environment department received from CSG proponents since 2010?
9. How many scientifically qualified technical officers are currently employed in the Contaminated Land Unit? How many technical officers were working in the unit 10 years ago?
10. What is the Commonwealth government's oversight of contaminated land in Queensland that has potential to impact on Matters of National Environmental Significance (i.e. under the Commonwealth EPBC Act)?

It is very likely the public liability for rehabilitation of mine sites (including CSG) would be in the billions of dollars and the financial assurances kept by the State Government would cover only a very small proportion of this. Despite the hundreds of thousands of hectares of land disturbed by mining and CSG, the Environment Department revealed in a letter to former regulator, Jim Leggate, in March 2012 that only 55.59 hectares had been officially signed off as "rehabilitated" by the State Government. This is in spite of mining companies regularly reporting they have "rehabilitated" substantial areas of disturbed land.

All of these weaknesses in monitoring and auditing by environmental regulators are duplicated in the area of enforcement. The regulatory agencies are badly under-staffed, hamstrung in their efforts to enforce conditions by the political influence of the large resource companies and with no great capacity for on-the-ground regulatory activity. The result is that, although these companies do have conditions they are supposed to adhere to and, occasionally, standards they are supposed to comply with, there are not the resources to enforce these or even, much of the time, to know whether or not they are being adhered to and no political will to back the regulators even if they wanted to act.

Environmental regulation of mining in Qld is fundamentally broken and has been comprehensively discredited. It is a sham that requires a complete and far-reaching overhaul.

## International environmental obligations

Australia is a signatory to the Convention on Biological Diversity (CBD), the World Heritage Convention (WHC), the Ramsar Convention on Wetlands and three international agreements for the protection of migratory birds (CAMBA, JAMBA and ROKAMBA). Each of these environmental treaties needs to be brought into Australian law for the agreements made under them to have effect. This is achieved by the *Environment Protection and Biodiversity Conservation Act 1999*.

We believe that Australia's obligations under each of these instruments are being compromised by the Queensland Government.

### Great Barrier Reef

For over three years, Australian Governments have been failing to heed warnings from the international community that the fossil fuel export developments under construction and approved in the Great Barrier Reef World Heritage Area are contrary to Australia's international obligations to protect the Reef to future generations. The Queensland and Australian Governments have approved four LNG terminals, two capital dredging programs and three coal terminals in the Great Barrier Reef World Heritage Area, since first becoming aware that the World Heritage Committee might place the Reef on the "in danger" list in October 2010.<sup>9</sup>

At Abbot Point, near Bowen, there are two new coal terminals and a capital dredging project approved in the World Heritage Area. The coal companies proposing to build the coal terminals at Abbot Point claimed that it "does not encompass areas of exceptional natural beauty" and that the marine life that lives there, including migrating humpback whales, nesting Green turtles, grazing dugongs and visiting snubfin dolphins are "neither outstanding per se, nor uniquely expressed at Abbot Point."<sup>10</sup> Reading the description of Abbot Point by the federal environment department tells a different story. They describe "extensive Halimeda beds representing active calcification and sediment accretion for over 10,000 years" and "feeding/breeding grounds for international migratory birds, cetaceans and marine turtles." They also describe the "vast extent of the reef and island systems which produces an unparalleled aerial vista" and a "rich variety of land and seascapes."<sup>11</sup>

Inshore dolphins, which occur at Abbot Point, have been described as the most vulnerable mammals in the Great Barrier Reef World Heritage Area, and GBRMPA's vulnerability assessment of these species describes their sensitivity to coastal development and water quality, both of which are material to the coastal zone assessment, as "very high"<sup>12</sup> The region where Abbot Point development is proposed has been identified as 'high priority' foraging habitat for Green turtles

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<sup>9</sup> Brief Number B10/2033, released under Freedom of Information to Greenpeace revealed that then Environment Minister Tony Burke noted in an internal Government brief that the World Heritage Committee may consider placing the GBR on the "World Heritage in Danger" list due to developments of LNG plants on Curtis Island.

<sup>10</sup> Abbot Point Cumulative Impact Assessment, Chapter 11 World Heritage.

<sup>11</sup> Alpha Coal Project. Recommendation report. August 2012.

<sup>12</sup> GBRMPA February 2012. "A vulnerability assessment for the Great Barrier Reef Indo-Pacific humpback and Australian snubfin dolphins" [http://www.gbrmpa.gov.au/\\_data/assets/pdf\\_file/0020/21746/gbrmpa-VA-Snub-IPhumpback-11-7-12.pdf](http://www.gbrmpa.gov.au/_data/assets/pdf_file/0020/21746/gbrmpa-VA-Snub-IPhumpback-11-7-12.pdf)

within the GBR Marine Park<sup>13</sup> and the area is known to provide foraging habitat for Green turtles (Vulnerable, EPBC), Flatback turtles (Vulnerable, EPBC) and Hawksbill turtles (Endangered, EPBC), and nesting habitat for Green and Flatback turtles<sup>14</sup>. Loggerhead and Olive Ridley turtles occur in the coastal zone too.<sup>15</sup>

In June 2012, UNESCO's Monitoring Mission, which visited the Reef in March that year, including Curtis Island, released its report into the state of conservation of the Great Barrier Reef. The report noted **"that developments on Curtis Island are not consistent with the leading industry commitment to not develop oil and gas resources in natural World Heritage properties."** The mission specifically noted that "The currently applied "offsets" to the development of Gladstone Harbour and on Curtis Island were reviewed briefly by the mission, and the approach involved is not one that has the support by the World Heritage Committee. Furthermore, the offsets that have been proposed do not appear to compensate for the losses resulting from these developments." The mission report concludes that "The mission considers the concept of "offsets" in relation to impacts on OUV to be problematic, and this is not something which to date the World Heritage Committee has considered as appropriate. In principle the decisions that were taken to proceed with approvals based on offsetting therefore appear to not correspond to an agreed approach within the World Heritage Convention. Beyond this point of principle, the mission also questions to what extent the proposed offsets are actually likely to compensate for the loss of values that will result from the LNG construction, and how this can be determined objectively."<sup>16</sup>

In 2012, in their decision on the conservation status of the Great Barrier Reef, the World Heritage Committee noted with "great concern"

...the potentially significant impact on the property's Outstanding Universal Value resulting from the unprecedented scale of coastal development currently being proposed within and affecting the property, and further requests the State Party to not permit any new port development or associated infrastructure outside of the existing and long-established major port areas within or adjoining the property, and **to ensure that development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value of the property** (our emphasis)

On June 2013, they went even further, again noting with concern

... the limited progress made by the State Party [Australia] in implementing key requests made by the Committee (Decision 36 COM 7B.8) and the recommendations of the March 2012 joint World Heritage Centre/IUCN reactive monitoring mission as well as on-going coastal development on the Reef, and urges the State Party to strengthen its efforts in order to fully implement the Committee requests and mission recommendations that have not yet or only partially been implemented, including by making commitments to:

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<sup>13</sup> *Abbot Point Cumulative Impact Assessment* Chapter 6, p30

<sup>14</sup> *ibid*

<sup>15</sup> *ibid*

<sup>16</sup> June 2012. *Mission Report: Reactive Monitoring Mission to Great Barrier Reef (Australia) 6th to 14th March 2012*. UNESCO World Heritage Centre – IUCN [http://whc.unesco.org/download.cfm?id\\_document=117104](http://whc.unesco.org/download.cfm?id_document=117104)

a) **Ensure rigorously that development is not permitted if it would impact individually or cumulatively on the OUV of the property**, or compromise the Strategic Assessment and resulting long-term plan for the sustainable development of the property<sup>17</sup> ...

The Australian Government has never adequately responded to the criticism that offsetting impacts on World Heritage Values is not supported by the World Heritage Committee, and has given approval to two new coal export terminals, another capital dredging program and another Curtis Island LNG terminal since the June 2012 World Heritage Committee meeting that made these decisions.

### Great Barrier Reef Compliance Failures - LNG Export Plants

Portions of Curtis Island, the largest island in the Great Barrier Reef World Heritage Area were excised by the Bligh government in 2008 without taking the island's Outstanding Universal Values into account, without consulting UNESCO or the Commonwealth government, and with ineffective local consultation. This was done to facilitate the development of LNG export terminals on the island.

Despite explicit concern from the community and from UNESCO, the Newman government has ignored all concerns and has continued to treat the harbour as an industrial precinct not as a World Heritage Area. The current LNP government has failed to hold anyone to account for the September 2011 environmental disaster at Gladstone Harbour.

The most recent independent review into Gladstone harbour (May 2014) acknowledged significant failings but exonerated all federal officers charged with enforcing federal environmental responsibilities. There has never been an inquiry into the failure of the harbour's management at state level.

In September 2013, the Queensland Coordinator-General approved a 4<sup>th</sup> LNG plant on the island despite acknowledging that Outstanding Universal Values would be harmed by Arrow plant. This decision in itself brought the current government's environmental credentials down and multiple other decisions following with regard to the Great Barrier Reef have continued to raise state, national and international concerns.

The Arrow approval appears to be in breach of *Queensland's State Development and Public Works Organisation Act 1971* (Qld) given the increased dimensions of the Arrow project above its original EIS submission, including a 33% increase in harbour dredging to 1,344,400 m<sup>3</sup>.

The approval suggests that the Coordinator-General is not competent to manage projects in world heritage areas.

Queensland has three world heritage properties but neither the Coordinator-General nor his officers (who reportedly were affected by the 14,000 public service job losses at the commencement of the Newman Government's term of office) appear to have the skills requisite for the specialist management required of WHAs.

The Coordinator-General recommended the sale of environmental precinct land on Curtis Island to Shell-PetroChina as offsets for their Arrow project ignoring both Commonwealth and UNESCO

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<sup>17</sup> WHC Decision 37COM 7B.10 <http://whc.unesco.org/en/decisions/4959/>

opposition to offsets which do not address direct habitat loss. This also appears to be a conflict of interest for the approval authority since the crown would make gains from the sale of this WHA land.

There were many questionable processes regarding the acquisition and then privatisation of public lands on Curtis Island under the Bligh government and the Coordinator-General has continued in the same manner since.

Turbidity in the harbour in September 2011 caused toxic algae outbreaks which led to environmental collapse of the inner harbour; the local commercial fishing industry went bust and more than forty fishermen developed health problems including bacterial infections. Rather than investigating and demanding accountability on the part of Gladstone Ports Corporation and its own Environment Department, the Newman government persisted with the lie that these problems were caused by flooding.

In contradiction of such claims by the environment minister, Coordinator-General Barry Broe admitted in his approval for Arrow LNG Plant that Port Curtis water sampling indicated exceedences of heavy metals and of turbidity, yet no action was taken by the environment department or the Gladstone Ports Corporation to investigate or prosecute for the declining water quality.

A second federal government review into Gladstone Harbour narrowly focused on a bund wall constructed to take fill from the deepened LNG shipping channels once the East Bank sea disposal site in WHA waters was deemed to be at capacity. In May 2014 it finally publicly acknowledged that the bund wall had been leaking in September 2011 and tonnes of silt had been leaking into the inner harbour. Those responsible for this disaster were not identified, no disciplinary or punitive action was taken against the Port Corporation, the construction contractors or the state environmental regulators. To this day the Newman government has allowed a shameful environmental and commercial disaster in a world heritage area to go unpunished.

As the leaking bund wall caused excessively high turbidity levels especially in the inner harbour from September 2011 well into 2012, environmental regulators at state and federal levels chose to shift the goal posts on turbidity monitoring rather than take action against industrial activities causing the turbidity. The previous state government allowed the months designated as wet and dry seasons and therefore greater or lesser natural turbidity to be changed. This pattern of collusion with industry was continued by the Newman government which shifted from monitoring NTU to light monitoring despite evidence from seagrass studies that the latter was ineffectual.

The Newman government has encouraged a culture of cronyism with inappropriate board appointments to statutory authorities and to senior positions in government which have responsibility for managing the world heritage area.

## Scenic Rim

The Great Barrier Reef is not the only World Heritage Area that is at risk from the Queensland Government's reckless drive facilitate mining. Over half of Queensland's World Heritage listed National Parks can be found in the Scenic Rim, and yet 80% of this area is covered by mining exploration tenements.

With the Queensland Government's blessing, in 2012 Arrow Energy began exploratory drilling in the Kerry Valley, near the Lamington National Park, part of the World Heritage Gondwana Rainforests of Australia. It fell to the local community to respond to protect Australia's natural heritage, and fulfil our international obligations, by blockading to stop the drilling. The now-Premier, Campbell Newman, wrote to the regional group that had formed to fight the threat, Keep the Scenic Rim Scenic, promising to protect the area from coal seam gas. There appear to be no immediate plans for mining in the Scenic Rim, but neither is there any pro-active action being taken by the Queensland Government to prohibit this.

There has also been a proposal by gas company Metgasco to run a gas pipeline through the World Heritage listed Gondwana Rainforests of Australia. This proposal has never at any stage met with any opposition from the Qld Government. This is despite the fact that the proposed pipeline would run through one of the last remaining colonies of the Eastern Bristlebird, one of the iconic and extremely rare birds of the GRA property. It is apparent that when there are issues relating to cross border cumulative effects or even projects that are cross border neither state will be effective in discharging the EPBC fully as they will neither have the capacity to fully explore the impacts nor the inclination.

It is the very clear position of the World Heritage Committee that mining, both exploring and production, should not occur in World Heritage sites, and neither should associated infrastructure and activities. Furthermore, the IUCN has stated that "Mineral and oil/gas exploration and exploitation outside World Heritage Sites should not, under any circumstances, have negative impacts on their Outstanding Universal Value."<sup>18</sup>

## Great Sandy Strait

The proposed Colton Coal project, which has recently been approved by the Qld Government, and which was not even deemed a controlled action by the Federal Government, provides an example of the impacts of coal mining on an internationally significant Ramsar wetland. The open-cut coal mine has been given approval to discharge untreated mine wastewater directly into the Mary River, just 5km upstream of the world-renowned Great Sandy Strait Ramsar wetland, which covers Tin Can Bay and adjoins Fraser Island.

The Great Sandy Strait is described as:

*"A sand passage estuary between the mainland and the World Heritage-listed Fraser Island, and is the least modified of three such passages in Queensland. It is the largest area of tidal swamps within the South East Queensland bioregion, consisting of intertidal sand and mud flats (roughly one-third), extended seagrass beds, mangrove forests, salt flats and saltmarshes, and often contiguous with freshwater Melaleuca wetlands and coastal wallum swamps. The Strait is an exceptionally important feeding ground for migratory shorebirds and important for a wide range of other shorebirds, waterfowl and seabirds, marine fish, crustaceans, oysters, dugong, sea turtles and dolphins".*

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<sup>18</sup> See IUCN World Heritage Advice Note – Mining and Oil/Gas Projects. 4 March 2013.

The discharge will include water contaminated with a range of heavy metals, including selenium and cadmium and the mine will make concentrations of these two metals worse. Modelling for the mine showed that concentrations of cadmium in the Mary River already exceeding the relevant guidelines. In the acid-forming waste soil and rock from the mine, there will very high concentrations of lots of metals in the leaching water. Even when diluted in the river, modelling showed that trigger values would be exceeded for aluminium, cadmium, cobalt, copper, nickel and zinc.

## Migratory bird agreements

Approval of damaging resource projects at Abbot Point has also called into question whether Australia is meeting its obligations under international migratory bird agreements. Article III of the Japan-Australia Migratory Bird Agreement commits Australia to “take special protective measures, as appropriate, for the preservation of species or subspecies of birds which are in danger of extinction.” and Article VI commits us “to take appropriate measures to preserve and enhance the environment of birds protected under the provisions of this Agreement. In particular, it shall: (a) seek means to prevent damage to such birds and their environment” The agreements signed with China and the Republic of Korea have similar clauses.

In 2012, North Queensland Bulk Ports conducted a “Cumulative impact assessment” of Abbot Point, including investigation of the impact of coal terminal developments proposed there on the Caley Valley Wetland. However, this was not a statutory process and the information collected for it was not used or included in key statutory assessments against the site – most controversially, for GVK Hancock’s T3 coal terminal. In 16 June 2012, the formal Federal assessment documents for the T3 coal terminal were publicly exhibited. These documents stated that “the Caley Valley wetland is not considered important migratory shore-bird habitat,”<sup>19</sup> and made specific claims about individual species that are not consistent with the findings surveys that had by that time already been conducted for the Cumulative Impact Assessment, including the claim that there were *no* Australian Painted Snipe records at the Caley Valley Wetlands.

Contrary to this claim, the surveys for the CIA counted a total of 24 Australian Painted Snipe on the site, representing 2.3% of the species’ total population in Australia, “**making the Caley Valley Wetland a particularly important site for the species in Australia**”<sup>20</sup>

The recommendation report for T3 says that “The T3 Project occurs in the middle of the known distribution for the Australian Painted Snipe. Several targeted bird and migratory bird species surveys have been undertaken over the past five years in the Caley Valley Wetland **and none of these surveys have observed this species.**”

The Caley Valley Wetlands can support over 40,000 individual birds, with 154 species recorded. The wetlands provide habitat for at least 22 species of migratory shorebirds and greater than 0.1 per cent of the flyway populations of the Red-necked Stint and Sharp-tailed Sandpiper. The Draft Wildlife Conservation Plan for Migratory Bird Species (August 2014) lists as one of its priority actions “Identify key areas for shorebird species and improve legal site protection and management using

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<sup>19</sup> T3 Preliminary Documentation, Section 8.

<sup>20</sup> Cover letter, dated 20 July 2012, for June 2012 *Migratory shorebird and waterbird survey of Caley Valley Wetland, Abbot Point.*

international, national and state mechanisms” with the goal that “An increased number of important sites for migratory shorebirds in Australia are formally recognised as new protected areas by 2020.”

We urge the Committee to recommend intervention by the Commonwealth to prevent the dumping of dredge spoil from Abbot Point coal terminal projects onto migratory and threatened shorebird habitat in the Caley Valley Wetlands.

### Convention on Biological Diversity:

Article 8 of the CBD exhorts each party to the Convention to “Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity.” Australia’s National Reserve system is our implementation of that commitment. The China First mine will clear half of a valuable biodiversity refuge, Bimblebox, which, as an IUCN Class VI reserve, is part of the National Reserve System. There is only 75,114ha of land in the National Reserve System in the Desert Uplands bioregion, meaning just over 1% of the bioregion is protected. One fifth of the reserve estate in the bioregion, or 16,217ha, is in reserves classed as IUCN category VI, and Bimblebox is the biggest of these four reserves. Three of the four IUCN VI reserves in the Desert Uplands are currently threatened directly (Cudmore Resources Reserve and Bimblebox Nature Refuge) or indirectly going to be impacted (Doongmabulla Mound Springs) by coal mining proposals. Bimblebox contributes 10% of the total area of the National Reserve estate in the Desert Uplands bioregion, and the clearing proposed for Bimblebox represents over 5% of the protected areas in the entire bioregion.

In the *National Reserve System Strategy 2009-2030* the target for achieving comprehensiveness in the reserve system notes that “Priority will be given to under-represented IBRA bioregions with less than 10 per cent protected in the National Reserve System.” As a result of this mine, the area of protection in the Desert Uplands bioregion, which is among the highest priority areas, will actually decline.

### Threatened species impacts

It is our experience of major resource projects in Queensland that inadequate surveying and assessment is undertaken to understand the impacts on threatened species and that regardless of the impact, resource projects secure approval. In our view, these actions are contrary to our obligations under the Convention on Biological Diversity, which exhorts us to understand and protect the threatened species in our jurisdiction.

In the assessments for the Galilee Basin coal mines, proponents repeatedly failed to undertake surveys in accordance with the relevant guidelines. In his report on the Carmichael mine, the Coordinator General made clear that the assessment so far carried out for both the Black throated finch and the Waxy Cabbage Palm for that mine were not adequate.

The original EIS for the Carmichael stated that the Waxy Cabbage Palm, a nationally threatened species, *was not present*. It was only a submission to the EIS, pointing out the failure of the proponent to actually conduct any surveys for it, that forced them to look for this rare plant and discover a nationally important population of the species there. The habitat for this species in the Carmichael River and Moses Spring is now considered “habitat critical to the survival of the species.” The 91 adults of this species found in the project site are roughly 10% of the estimated total adult

population of the species. Most of these, 75% of them, are located within the project area itself, and very near to the mine workings. The mine got approval to go ahead anyway.

This is just one example. In our reading of Environmental Impact Statements for mines and coal seam gas projects across southern and central Queensland, we have found repeated and egregious failure to adequately survey for species as diverse as endemic daisies, koalas, bats, button-quails and finches. Even if survey effort is undertaken, projects are invariably approved, and the same species and communities: semi-evergreen vine thicket, Brigalow, Squatter pigeon, Black-throated finch, King blue grass; are repeatedly found in the way of coal and gas developments and approved for clearing and loss regardless of the scale of the impact. For example, mines and gasfields that have been assessed under a bilateral agreement that harm the above species and communities include Norwich park (45ha Brigalow), APLNG's Walloon Gasfields and GLNG's Surat Basin gasfield, and numerous others.

Repeated requests and recommendations for cumulative assessments have not been implemented.

## Hand over of powers

### International obligations

As outlined elsewhere in this submission, there are several international agreements that Australia is currently failing to uphold in the assessment and approval of resource projects in Queensland. In the case of the World Heritage Convention, the World Heritage Committee, at its meeting this year, very clearly stated its opposition to plans to hand approval powers for the Great Barrier Reef World Heritage Areas to the Queensland Government. The Committee said that it, "considers that the transfer of decision-making power from Federal to State levels, before the vision, framework with desired outcomes and targets, and governance requirements to deliver the [Long Term Plan for Sustainable Development for the Reef] have been adopted, is premature, and should be postponed to allow further consideration"<sup>21</sup>

### State's jurisdictional limits and vested interests

It is appropriate and necessary that the Commonwealth of Australia, as the signatory to international agreements for environmental matters, maintains responsibility for their domestic implementation through the *EPBC Act*. The current process available in the Act to accredit assessment processes means that duplication is not necessary, but that the Commonwealth retains a decision making function over matters that have national environmental significance. This is totally appropriate since the Queensland Government cannot be expected to act outside of its jurisdictional interest and accurately and adequately weigh matters of national and international importance.

It is also well recognised that state governments have a vested interest in the royalties that the mining industry provides. However, in the case of CSG mining, there is still considerably uncertainty as to what royalties will be. The total of \$800m/year is often bandied about as the coal seam gas royalties to be received by the State Government when the CSG/LNG industry is up and running. However, there needs to be much more transparency about how such amounts are figured and the

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<sup>21</sup> Decision 38COM 7B.63 in WHC-14/38.COM/16

methodology employed to do so. Royalties paid by the coal industry are clear; they are a certain amount per tonne of coal. However, with all gas, the figure is 10% of the well head value. WHV is calculated by subtracting production costs beyond the well head getting the gas to a state/location where an “arms-length” sale occurs . It is not at all clear what this well head value is likely to be, nor what expenses can be subtracted from this figure.

A significant amount of CSG (580.81 cu.m or 1.5% of the total gas produced to date) has been flared or vented and it is probable that the companies have not paid any royalties on this, even though it is a public resource that is being extracted. Total Petroleum and Gas Royalty Revenue for the 2012-13 financial year was a paltry \$58.8M on a production of 7969 M cubic metres of conventional gas and CSG used domestically. This is a royalty of approx. 20 cents / Gigajoule. This equates to a WHV of approx. \$2.00/Gigajoule. The Queensland taxpayer deserves to know what well head value will apply once the gas industry goes to export. There needs to be markedly improved transparency around royalties, so that the community has a clear view of what the incentive is for the Qld Government, and what the real value of returns to the state from our resources are.

### Water trigger

It is well-established in Australia that water management is a matter of national concern, and that water resources like the Murray Darling Basin, the Lake Eyre Basin and the Great Artesian Basin are of fundamental importance to the continent, its people and natural landscapes. Impacts on these resources by large coal mining and coal seam gas are already occurring in Queensland and we are alarmed by new moves in the *Water Reform and Other Legislation Bill* to give statutory entitlements to mining companies to take unlimited quantities of groundwater that must be removed for them to undertake their mining activity. Federal oversight of decision-making in this area was long-overdue and still requires far greater attention than it is currently getting.

The COAG *National Harmonised Regulatory Framework for Natural Gas from Coal Seams* stresses that,

cooperation between governments to ensure that the long-term effects of groundwater extraction associated with natural gas production from coal seams do not adversely affect water security for other users and the environment. This will require quantification of the cumulative effects on connected water systems and an awareness of the long timeframes involved.

This is not possible without the water trigger, as the analysis of the COAG framework bears out. State Governments are not capable or willing to impose constraints on coal and coal seam gas mining sufficient to protect water resources that are nationally significant, like the Murray Darling Basin, the Great Artesian Basin and the Lake Eyre Basin.

The Qld Government, for example, has already approved the discharge of treated CSG wastewater directly into Murray Darling Basin river systems, at levels that exceed relevant environmental guidelines and which are likely to lead to increases in salt and heavy metal loads. There are also concerns that CSG drilling may have already contributed to methane 'bubbling' up through the Condamine River.

In the Surat Basin in southern Queensland which already hosts extensive invasive coal seam gas mining, Arrow Energy has approval for another 6,500 well gasfield. This new Surat gas project is predicted to produce 510GL of produced water over 40 years, generating an estimated 2.3 million

tonnes of salt. Documents obtained under Freedom of Information laws by Lock the Gate Alliance reveal that Arrow Energy tried to make the extraordinary claim that the project, which will discharge unknown quantities of coal seam gas water of unknown quality into rivers and creeks “is unlikely to have a significant impact on the water quality of water resources in the Surat Basin”<sup>22</sup>

The IESC criticised Arrow’s supplementary report to its EIS for failing to address some serious potential impacts their project will have on water resources, including undisclosed plans to discharge polluted water into the Condamine River, failure to present a plan to deal with the salt the project will produce, and failure to adequately prepare for flooding.

The IESC recommended that a comprehensive flood study be undertaken modelling the effects of a one-in-one-thousand year scale flood, and that “project infrastructure with the potential to cause significant contamination, such as raw co-produced water and brine dams, should be protected from these events.” This has not been done, and the Queensland Government Assessment Report for the project did not implement or even mention this crucial recommendation, instead noting that, “The use of buffer zones to restrict project activities near watercourses, and location of facilities above the 1-in-100-year ARI flood event were highlighted as significant measures to limit residual impacts, although the width of buffers was not defined and the location of facilities above the 100 year ARI would only occur where this was considered by Arrow to be practicable.”<sup>23</sup>

The Federal conditions of approval, however, pick up this problem, and attempt to address it by requiring Arrow to undertake a flood risk assessment “which addresses potential impacts to the environment from the action in the case of a 1:1000 ARI event, and which will estimate the consequences if major project infrastructure is subject to such an event, including release of brine and chemicals into the environment.”<sup>24</sup> Without the Federal oversight and approval power for the water trigger, this condition would not be imposed, with the associated risk that, over the 40 year life of this project, a greater than 1 in 100 year flood would occur which Arrow’s infrastructure could not cope with, and a major pollution event would result.

In a sign of just how difficult the Qld Government finds it to place control on the mining industry in order to protect water supplies, it has even recently allowed coal exploration in the Wivenhoe Dam catchment, which provides drinking water supplies for 2 million people in Brisbane and surrounds.

## International Human Rights Obligations

Clause 1 (d) of the Terms of Reference addresses the extent to which Queensland State Government policies and practices are consistent with Australia’s obligations under international environmental law instruments.

Coal and coal seam gas projects, which are strongly promoted by the Queensland Government and facilitated by its laws and policies, harm human health, the environmental and cultural values.

As specified elsewhere in this report, coal and coal seam gas mining leads represents a major risk of water pollution, loss and depressurisation. Mining is also leading to major impacts on health.

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<sup>22</sup> See Document 13 Letter dated 26 August 2013 and Document 17 Letter dated 10 October 2013.

<sup>23</sup> Queensland Department of Environment and Heritage Protection. Assessment Report. October 2013. 92

<sup>24</sup> EPBC Act Decision brief. Department of Environment. December 2013.

<http://www.environment.gov.au/epbc/notices/assessments/2010/5344/2010-5344-decision-brief.pdf>

Doctors for the Environment Australia<sup>25</sup> have identified numerous health risks from coal and unconventional gas mining. Coal mining leads to an increased risk of heart, lung and kidney disease. Every day, uncovered coal trains spread dangerous coal dust as they travel through the suburbs of Brisbane to the Port of Brisbane, placing families living nearby at risk. At Jondaryan, New Hope coal has been allowed to place a coal dump immediately adjacent to the town, where coal dust levels have been recorded at 234 times background levels. On the Fraser Coast, the Qld Government has approved the Colton coal mine just 2km from the township of Aldershot and just 7km from Maryborough hospital. The township of Aldershot is entirely dependent on rainwater for its drinking water supply - which is placed at risk by coal dust contamination. The situation is similar across Qld - as coal ports, mines and transport corridors are allowed to encroach on rural and urban communities.

Numerous authorities and institutions - including the Australian Medical Association, the World Health Organisation and leading academics in the fields of air pollution and health impacts of particulate pollution - are increasing their warnings about the deadly consequences of poor regulation of dangerous coal dust.

The release of volatile organic compounds from unconventional gas mining has been associated with rashes, nausea and seizures in children and numerous other negative health impacts. A large study in rural Colorado recently showed an increase in the prevalence of heart defects in babies whose mothers lived within 10 miles of a gas well<sup>26</sup>. Another recent study showed that the number of reported health symptoms per person was higher among residents living within 1 km of unconventional gas wells. Upper respiratory symptoms were more frequently reported in persons living in households less than 1 km from gas wells (39%) compared to households 1-2 km away (31%) or greater than 2 km from the nearest well (18%)<sup>27</sup>. A third study has concluded that proximity to fracking for mothers with babies in utero increases the likelihood of low birth weight by more than half, from about 5.6 percent to more than 9 percent<sup>28</sup>. The chances of a low Apgar score, a summary measure of the health of newborn children, roughly doubled, to more than 5 percent, according to the study.

In Australia, in early 2013, a medical General Practitioner, Dr Geralyn McCarron, conducted an investigation into health complaints reported by people living in close proximity to CSG developments in Qld<sup>29</sup>. She surveyed 113 people from 38 households in the Tara/Kogan region, in person and via the telephone. 58% of residents surveyed reported that their health was definitely adversely affected by CSG, whilst a further 19% were uncertain.

In her report, Dr McCarron stated that:

*"The pattern reported was outside the scope of what would be expected for a small rural community. In all age groups there were reported increases in cough, chest tightness, rashes, difficulty sleeping, joint pains, muscle pains and spasms, nausea and vomiting. Approximately one third of the people over 6 years of age were reported to have spontaneous nose bleeds, and almost three quarters were reported to have skin irritation. Over half of children were reported to have eye irritation.*

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<sup>25</sup> [http://dea.org.au/news/article/the\\_mining\\_and\\_burning\\_of\\_coal\\_effects\\_on\\_health\\_and\\_the\\_environment](http://dea.org.au/news/article/the_mining_and_burning_of_coal_effects_on_health_and_the_environment) which references this article <https://www.mja.com.au/journal/2011/195/6/mining-and-burning-coal-effects-health-and-environment>

<sup>26</sup> Lisa M. McKenzie,<sup>1</sup> Ruixin Guo,<sup>2</sup> Roxana Z. Witter,<sup>1</sup> David A. Savitz,<sup>3</sup> Lee S. Newman,<sup>1</sup> and John L. Adgate<sup>1</sup>. Birth Outcomes and Maternal Residential Proximity to Natural Gas Development in Rural Colorado. *Environ Health Perspect*; DOI:10.1289/ehp.1306722

<sup>27</sup> <http://ehp.niehs.nih.gov/wp-content/uploads/advpub/2014/9/ehp.1307732.pdf>

<sup>28</sup> <http://www.bloombergview.com/articles/2014-01-04/study-shows-fracking-is-bad-for-babies>

<sup>29</sup> Symptomatology of a Gasfield, 2013.

*A range of symptoms were reported which can sometimes be related to neurotoxicity (damage to the nervous system), including severe fatigue, weakness, headaches, numbness and paraesthesia (abnormal sensations such as pins and needles, burning or tingling). Approximately a third of the all the 48 children to age 18 (15/48) were reported to experience paraesthesia. Almost all the 31 children aged 6-18 were reported to suffer from headaches and for over half of these the headaches were severe. Of people aged 6 years and over, severe fatigue and difficulty concentrating was reported for over half. Parents of a number of young children reported twitching or unusual movements, and clumsiness or unsteadiness."*

There has been a fundamental failure to properly assess or mitigate the risks to health from coal and unconventional gas mining in Qld. There has been no comprehensive baseline health testing conducted, no Health Impact Assessments undertaken prior to project approvals, and no systematic ongoing monitoring regime put in place. The regulatory measures in place to control impacts are inadequate. As health risks have become apparent and have been reported by communities, the response from the Qld Government has been disinterested and markedly inadequate.

It is a cause of great concern that there has been no dedicated investigation made into the air pollution from coal seam gas activities to date. The emissions from coal seam gas flaring include large quantities of methane and noxious emissions, including nitrogen oxides, volatile organic compounds and hazardous air pollutants.

These harms, which result from the law and policies of the Queensland Government, may violate a number of rights protected under international law.<sup>30</sup>

The right to health is a fundamental human right indispensable for the exercise of other human rights.<sup>31</sup> The right to health, and the associated right to an adequate standard of living, are protected by Article 12 of the International Covenant on Economic, Social and Cultural Rights ("ICESCR")<sup>32</sup> (which recognises the right "to the enjoyment of the highest attainable standard of physical and mental health"), Article 11 of the ICESCR (which recognises "the right of everyone to an adequate standard of living for himself and his family"), and Article 25(1) of the Universal Declaration of Human Rights<sup>33</sup> ("everyone has the right to a standard of living adequate for the health and well-being of himself and his family"). Australia is a party to the ICESCR.

The right to health includes a wide range of factors that are underlying determinants of health, including healthy working and environmental conditions;<sup>34</sup> for example, Article 12(2)(b) of the ICESCR requires States to take steps to achieve the full realisation of the right to health, including steps necessary for the "improvement of all aspects of environmental and industrial hygiene."

The United Nations Committee on Economic, Social and Cultural Rights has noted that a State may violate its obligation to protect health by, among other things, failing to "enact and enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries" and by failing

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<sup>30</sup> Although the violation of rights described here is a result of actions of the Queensland Government, under international law Australia is responsible for the actions of the Queensland Government.

<sup>31</sup> United Nations Committee on Economic, Social and Cultural Rights, *Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights – General Comment No. 14 (2000)* (August 11, 2000) (E/C.12/2000/4) ("General Comment No. 14"), paragraph 1, available at

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaoiTzDjmC0y%2b9t%2bsAtGDNzdEqA6SuP2r0w%2f6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNDxL> (accessed November 13, 2014).

<sup>32</sup> A copy of the ICESCR is available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx> (accessed November 13, 2014).

<sup>33</sup> A copy of the Universal Declaration of Human Rights is available at <http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng> (accessed November 13, 2014).

<sup>34</sup> *General Comment No. 14*, above n 2, paragraphs 4 and 11.

to regulate the activities of corporations to prevent them from violating the right to health of others.<sup>35</sup>

The Queensland Government has failed to ensure that its law and policies prevent pollution from coal and CSG projects and, accordingly, the right to health of people affected by these projects – such as people who breathe coal dust, or gas emissions, or who drink water contaminated by either one – is violated.

International law also protects the right to water, which is implicit in Articles 11 and 12 of the ICESCR and is a prerequisite for the realisation of other human rights (such as the right to adequate food).<sup>36</sup> The UN General Assembly has recognized “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.”<sup>37</sup> The right to water requires that safe water be available in sufficient quantities for personal and domestic uses.<sup>38</sup> To protect the right to water, States should “ensure that natural water resources are protected from contamination by harmful substances” and take measures to restrain third parties from “polluting and inequitably extracting from water resources.”<sup>39</sup>

To fulfil the right, States should adopt strategies to ensure sufficient and safe water for present and future generations by, for example, reducing and eliminating contamination of waters, ensuring proposed developments do not interfere with access to adequate water, and assessing the impacts of actions that may impinge on water availability.<sup>40</sup>

Allowing contaminants from coal and gas mining to reach water sources and supplies, and by allowing unsustainable extraction of water resources by these industries to the detriment of other users (ie agriculture), the Qld Govt is violating the right to water. Because the Qld Government's laws and policies do not prevent these impacts, it has failed to protect the right to water.

The United Nations Declaration on the Rights of Indigenous Peoples has been ratified by the Australian Government and it identifies rights to free, prior and informed consent by Indigenous Traditional Owners prior to development being approved, and the right to protect cultural property and religious and cultural sites. However, none of these rights have been met in Qld. Traditional custodian Neil Stanley has submitted complaints about the location of a CSG well within a well-recognised and listed cultural site, a Bora Ring, near Kogan. There has never been any penalty for the company involved and the CSG well is still located on the site. Similar concerns about impacts on important sites have been raised by Traditional custodians in relation to the LNG terminals on Curtis Island and the substantial damage that they have incurred there.

In Far North Qld, a CSG exploration permit has been granted over Nguddaboolgan (Mt Mulligan) ~60km west north west of Mareeba in the headwaters of the iconic Mitchell River. Nguddaboolgan is a very sacred place to the Djungan people and surrounding traditional custodians. This country contains numerous sacred and cultural sites that are listed on the National Heritage database and has endangered fauna and also plants that are found nowhere else. The Western Yalanji Aboriginal

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<sup>35</sup> *Id.*, paragraph 51.

<sup>36</sup> United Nations Committee on Economic, Social and Cultural Rights, *Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights – General Comment No. 15 (2002)* (“General Comment No. 15”) (January 20, 2003) (E/C.12/2002/11), paragraphs 1, 3 and 7, available at [http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf) (accessed November 13, 2014).

<sup>37</sup> United Nations General Assembly, *Resolution 64/292 – The human right to water and sanitation* (adopted July 28, 2010) (A/Res/64/292), Resolution 1, available at <http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E> (accessed November 16, 2014).

<sup>38</sup> *General Comment No. 15*, paragraphs 10-12.

<sup>39</sup> *Id.*, paragraphs 8 and 23.

<sup>40</sup> *Id.*, paragraph 28.

Corporation and Nguddaboolgan Prescribed Body Corporate, have raised concerns about the impacts that CSG mining would have on the area if it were allowed to proceed.

Under the operation of Federal native title laws, and in the absence of greater recognition of Aboriginal land rights in statutes in Qld, Indigenous peoples have few rights to genuine free, prior and informed consent before mining projects are approved. Traditional Owners generally experience a great deal of pressure to sign agreements with mining companies. It is a very difficult and stressful process for communities in the absence of a clear and unequivocal right to say no, if they so choose.

## Other Matters Relevant to the Inquiry

Clause 1 (g) of the terms of reference empowers the Committee to inquire into any other matter the committee considers relevant.

### Gifts

Regarding the approval process for the development of projects for the export of resources that are assessed under the bilateral agreement with the Commonwealth, we believe that the quantity and quality of gifts being bestowed by mining companies on Queensland Government bureaucrats, and acceptance of those gifts by those public servants, is relevant to the Committee's inquiry. This practice of giving and accepting gifts is compromising the public interest in Queensland and the Commonwealth matters that are bilaterally delegated for Queensland Government departments to assess and oversee.

We attach for your information a summary of the gifts given by mining companies or their representatives and received by representatives of Queensland Government agencies, over the last three years. In some instances, these gifts are complimentary tickets to conferences and networking events that are relevant to the work being undertaken by the bureaucrats in question. Accepting these gifts essentially means that the networking and information gathering that Queensland public servants undertake at these events is done at the behest of the company that provided the tickets.

Every month over the last two years, while Queensland agencies have been assessing new coal and gas projects, or monitoring existing operations, their senior managers have also been accepting gifts and attending functions with the companies that own those projects.

Perhaps most alarming are the gifts of chocolates and wine given by the Jellinbah Group and their Lake Vermont coal mine subsidiary to three public servants engaged in mine inspection and compliance work.

On 24 occasions in the last two years, mining companies have treated senior Queensland public servants in agencies that assess, oversee or monitor mining projects with bilateral assessment of Commonwealth interests to private dinners or tickets to corporate boxes at football matches. The bureaucrats that have accepted these gifts include the Director General of the Department of Premier and Cabinet, Jon Grayson, Gasfields Commissioners, the Director-General of the Department of State Development Infrastructure and Planning, David Edwards. This is completely unacceptable and in our view has compromised assessment processes and compliance monitoring

for a range of high profile and damaging coal and gas projects by the companies concerned, including Santos, Arrow Energy, BG Group and Adani. The sharing of dinners and football matches reveals the degree of intimacy these companies have with senior bureaucrats whose agencies are charged with assessing matters of interest to the Commonwealth. No organisation that advocates for the public interest is awarded this degree of chumminess, and it is impossible to believe that such familiarity is not accompanied by an inappropriate degree of confidence, support and favour.

## Revolving Door

Furthermore, we believe that it is also relevant for the Committee to consider the “revolving door” between Government and the mining industry in Queensland. It has emerged that public servants who did assessment work for CSG to LNG projects with Commonwealth interests and which were assessed bilaterally now work for the industry they assessed. Shane McDowall, a former deputy co-ordinator general with the Government, now sits on the board of the Flinders Group as managing director alongside former senior public servants Phil Dash, who worked on the assessment of QGC and Santos's Gladstone LNG project, and former deputy co-ordinator general Geoff Dickie both of whom also now work for Flinders, which is a privately-owned project management company contracted to UK energy giant BG Group's Queensland CSG subsidiary QGC. On the board of the Flinders Group is John Cotter Jnr, son of the Chair of the Gasfields Commission.

Andrew Brier was the general manager of the Gasfield Commission in 2012 and early 2013. He has been the head of LNG compliance for the Government and General Manager of Strategic Implementation, Coal and CSG Operations, at the former Department of Environment and Resource Management. Between working for DERM and the Gasfield Commission, Brier worked for gas company Santos, overseeing the environment, land and cultural heritage teams on the pipeline from the company's Fairview gasfield to Gladstone. He now runs his own consultancy.

No doubt nobody in the public knows the extent of job-swapping between mining companies and roles as political advisors and in the senior ranks of the bureaucracy. There are also examples that flow in the other direction, senior and influential government roles being filled by coal and gas company operatives, without any cooling off period, including the Premier chief of staff, Ben Myers, who formerly worked for QGC. In fact, the offices of the Premier, Minister Seeney and Minister Cripps all contain ex mining industry employees now engaged at a very high level.

Matt Adams, formerly development manager at Ambre Energy, which proposed an open-cut coal mine on the rich farmland at Felton is now a senior policy adviser to Jeff Seeney.

Perhaps the most startling example is former head geologist for the Queensland Department of mines, Chris Wallin who left the Government and set up the private company QCoal in 1989, and is now a billionaire. Chris Wallin was a major donor to the LNP prior to the last Queensland election donating \$120,000, according to the [7:30 Report](#).

QCoal's corporate affairs chief has allegedly been in charge of developing the LNP environment policy since 2012<sup>41</sup> and is said to have worked full time for the LNP during the last election campaign while at the same time being paid by QCoal.

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<sup>41</sup> <http://www.theguardian.com/world/2014/may/06/queensland-environmental-policy-developed-by-qcoal-worker-says-report>

QCoal's controversial Sonoma coal mine has been the subject of major controversy, after an initial plan and promise to retain a local creek system, Coral Creek, was reversed and the company sought and obtained an approval to divert the creek for mining purposes, without being required to produce an environmental impact statement. A landholder who farms nearby and depends on the creek water challenged the approval in the Land Court, but lost<sup>42</sup>. A river morphologist described the modelling on which the river diversion proposal was approved as 'shockingly poor'.

Here is a list of some of the more high profile shifts between the mining industry and the Qld Government in recent years, where direct moves were made from mining to Govt or vice versa, without any cooling off period:

Jim Belford: went from being the Director of LNG Enforcement with the Department of Environment and Resource Management to take on the role of Santos Team Leader Environmental Compliance and then later the role with Santos of Senior Adviser - Governance, Assurance and Approvals.

Shane McDowall: went from being the Deputy Coordinator-General, Infrastructure and Land with the Qld Government to a role with Flinders Hyder, a land access/acquisition and approvals consultancy that is contracted to provide services to CSG and other resource companies.

Andrew Brier: went from being the General Manager, Coal and Coal Seam Gas Operations with the Qld Government, to being the Compliance Manager for Santos Ltd. From there he was appointed as the General Manager/CEO of the Gasfields Commission by the Qld Government, and has since started his own consultancy providing services to both the resources sector and the government.

Phil Dash: went from being the Deputy Co-ordinator-General overseeing approval for significant projects to being Senior Associate and Sector Lead for Mining and Resources with Flinders Hyder, a consultancy that services the resources sector.

Rod Kent: went from being an internal reviewer with the Department of Environment and Resource Management to go directly to Santos GLNG Manager Landholder Relations.

Geoff Dickie: went from being the Deputy Co-ordinator General overseeing approval for significant projects with the Qld Government to being a Strategic Advisor in the Public and Government Affairs group of Rowland Pty Ltd, a lobbying firm which conducts substantial work for the mining industry. He is now the Chairman of the Queensland Exploration Council.

James Purtill: went from a Public Service Commissioner with the Qld Government, and prior to that the Director of the Qld EPA, to the General Manager Sustainability at Santos GLNG. Then moved into roles with companies servicing the resources industry, and then back into Qld govt as the Director General the Department of Aboriginal & Torres Strait Islander and Multicultural Affairs.

Alan Feely: went from the Executive Director of Queensland Parks and Wildlife to Santos as NSW Manager Environment and Water. Then moved directly back into Qld govt as the

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<sup>42</sup> <http://www.abc.net.au/news/2014-04-29/farmer-faces-ruin-after-losing-coal-mine-court-fight/5417394>

Deputy Director General of the Department of Aboriginal & Torres Strait Islander and Multicultural Affairs.

David Edwards: went from being the Manager Strategy and Market Development at GHD, a consultancy firm that conducts substantial work for the mining sector, to the Director General of the Department of State Development, Infrastructure and Planning with the Qld Government. He was a former chief of staff to Jeff Seeney, whilst in opposition.

Stephen Bizzell: is a mining company director with current roles and interests in numerous energy and resource companies, who has been appointed by the Qld Government as non-executive Director of Queensland Treasury Corporation. He made tens of millions of dollars in the sale of Arrow Energy to Shell and PetroChina.

Mitch Grayson: went from being a Senior Media Advisor with Premier Campbell Newman to being Senior Media and Communications Advisor with Santos GLNG for over a year, and then back again.

Lisa Palu: went from being Media and Communications Manager with Arrow Energy to Senior Policy Advisor, Office of the Premier.

Ben Myers: went from being a media adviser with QGC to being the Chief of Staff to Premier Campbell Newman. Ben Myers brother, Luke Myers, is employed as an associate director at the Brisbane office of the national lobbying firm Government Relations Australia.

Neil McGregor: went from being the Company Secretary & GM Corporate Communication with coal company Ambre Energy directly to being the Director, Public Sector Renewal at the Department of Premier & Cabinet.

Matt Adams: went from being Manager Business Development with Ambre Energy to being Senior Policy Advisor to Deputy Premier Jeff Seeney.

Les Cox: went from being Team Leader Support Projects with Arrow Energy to being Senior Policy Adviser to the Minister for Natural Resources and Mines.

David Usasz: was a Director of Ambre Energy whilst also being a Director of the Qld Investment Corporation (QIC).

Jeff Popp: went from being Communications Director with major mining delivery and assessment service provide AECOM to being the Chief of Staff in the Office of the Deputy Premier.

It is notable that numerous former Federal Government Ministers have also moved very quickly to take consultancies or roles with the mining industry (Martin Ferguson, Greg Combet, Craig Emerson etc), as have some of their staff.

## Political Donations

A scan of donations to the LNP since the 2011/12 financial year reveals more than a million dollars in in-kind support, subscriptions and direct cash donations from mining companies or prominent mining tycoons and individuals. This includes donations from companies that have highly

controversial projects and we believe that this large quantity of money flowing from the mining industry into the LNP is compromising the Government's independence in decision making about mining and environment policy.

An example of community concern about the influence of political donations on Government decisions is one which related to the dredging of the Great Barrier Reef. Former mining tycoon, Paul Darrouzet, was allegedly granted an approval to amend his environmental authority for maintenance dredging at Abell Point marina in August 2013, just a week after purportedly donating \$150,000 to the LNP<sup>43</sup>. He is described as the 'largest individual donor' to the Qld LNP.

### Perceived or Alleged Conflicts of Interest

There appear to be inadequate controls to prevent the community feeling that there are perceived conflicts of interest at play within government bodies or departments. For example, community groups, landholders and media outlets have alleged a number of potential conflicts of interest in relation to the Gasfields Commission.

The son of commission chairman John Cotter is the founder and major shareholder of a Brisbane-based consultancy that has close links to the British-owned Queensland Gas Company, one of four firms developing the state's \$65 billion CSG industry. This was perceived by some as representing a conflict with Mr Cotter Sr's role on the Gasfields Commission. John Cotter Jr's Flinders Group is involved in the \$100 million construction of a jetty at Curtis Island at Gladstone, from where exports of liquid natural gas will begin next year. The Flinders Group is also alleged to have advised resource firms, including QGC, on accessing land in more than 10 major projects, involving agreements with 1000 landholders.

Another commissioner, a farmer from Wandoan in central Qld, has allegedly done extensive business with gas companies. It has been reported that he and his family have gas pipelines and other infrastructure on their properties for which they have allegedly been compensated. He purportedly also has an interest in a company that owned a quarry that was providing sand for a water pipeline.

One of the Commissioners is also the father of a Qld LNP politician, Deb Frecklington, who is the assistant Minister for Finance, Administration and Regulatory Reform in the Newman Government. A third Commissioner is a representative of APPEA, the CSG industry body. A fourth Commissioner has allegedly been compensated for water trials on his Dalby property by the Qld Office of Groundwater Impact Assessment and is reported to be a potential recipient of treated CSG water from CSG company, Arrow Energy.

When it was first created, the Gasfield Commission was designed to address a power imbalance between wealthy mining firms and farmers concerned about the impacts of mining on groundwater. However, perceived conflicts of interest have undermined trust with many landholders, such that many assert that the role of the Commission is largely to facilitate and 'grease the wheels' of industry.

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<sup>43</sup> [http://www.afr.com/p/national/lnp\\_supporter\\_paul\\_darrouzet\\_granted\\_H56FCT5lzRinFun8UfGHk](http://www.afr.com/p/national/lnp_supporter_paul_darrouzet_granted_H56FCT5lzRinFun8UfGHk)

## Inadequacies of the Crime and Corruption Commission

In 2013, whistleblower Simone Marsh lodged a complaint with the then Queensland Crime and Misconduct Commission (CMC) about the legal flaws in the approval of CSG/LNG projects in Qld during the time that she was involved working for the Department of Infrastructure and Planning. She provided substantial information to the Commission and conducted several interviews. Drew Hutton, President of Lock the Gate Alliance also submitted a similar complaint. Both complaints alleged that legal breaches in the approvals amounted to official misconduct.

Seven months after the complaints were lodged, the CMC responded to both complainants, stating that they were not intending to investigate the matter and claiming that health and environmental 'policy' matters were outside their jurisdiction. However, at that time, official misconduct was well and truly within their scope. The intent of the complaint appears to have been misconstrued as a means to dismiss it. A number of meetings between the Premier and his office and the CMC, shortly after the complaint was lodged, have led to some reports that allege that there was some sort of political interference in the process.

In mid 2014, the CMC was re-badged as the Crime and Corruption Commission (CCC), and it has suffered a major narrowing of its scope, such that it can no longer consider official misconduct, but must confine its investigations to major crime and corruption. The thresholds for referral to the CCC on crime and corruption have also been substantially increased<sup>44</sup>. The appointment of the Chair of the CCC is no longer required to be a bipartisan decision as a result of the changes.

## Coal Seam Gas Approvals

The Federal Government approved three major CSG projects and associated export terminals, in 2010 - APLNG, GLNG, QCLNG. In total, the three projects approved approx 17,750 CSG wells across close to 1 million hectares of land.

Both state and Federal Governments approved these projects in an enormous hurry and without undertaking any cost benefit analysis. It had been recognised by the Qld Government prior to the approvals that there was a major risk to domestic gas supply from export LNG<sup>45</sup>. According to the DomGas Alliance, in 2009 energy users alerted the Qld Government to the risks of sharply rising gas prices and domestic gas shortages that would result from LNG exports<sup>46</sup>. A September 2009 Qld Government consultation paper on domestic gas supply issues made it abundantly clear there was a major risk to both quantity and price of domestic gas from LNG exports, and that would have major negative implications for industrial users of gas<sup>47</sup>.

Belatedly, after the LNG projects had been approved, in May 2011, the Bligh Qld govt passed the *Gas Security Amendment Act 2011 (Qld)* to enable implementation of a *Prospective Gas Production Land Reserve (PGPLR) Policy*. Under this policy, the State may apparently, when granting a production

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<sup>44</sup> <http://www.ccc.qld.gov.au/news-and-media/ccc-media-releases/summary-of-the-key-changes>

<sup>45</sup> Pages 5 & 6 <http://rti.cabinet.qld.gov.au/documents/2009/aug/lng%20impacts%20review/Attachments/LNG%20Industry.pdf>

<sup>46</sup> Page 6 [http://www.domgas.com.au/pdf/Alliance\\_reports/Queensland%20gas%20market%20submission-FINAL-July%202012.pdf](http://www.domgas.com.au/pdf/Alliance_reports/Queensland%20gas%20market%20submission-FINAL-July%202012.pdf)

<sup>47</sup> <http://www.cabinet.qld.gov.au/documents/2009/nov/qld%20gas%20security/Attachments/Domestic%20Gas%20Consultation%20Paper.pdf>

licence, require that gas produced from an area be supplied domestically. However, to date, no gas field as far as we are aware has been set aside for domestic gas only development.

It is notable that Simone Marsh, a whistleblower, who was working for the Department of Infrastructure and Planning on the assessment of the projects in 2010, maintains that staff at the time were repeatedly told that measures would be put in place to ensure gas from certain tenements up to a given percentage of production would be reserved for domestic gas supply.

Recent reports have indicated that LNG exports are leading to a tripling of wholesale domestic gas prices, and analysis such as that by Deloitte Access Economics earlier this year, has predicted a \$118 billion hit to the manufacturing industry as a result of LNG exports and in the absence of any measures to protect Australian domestic gas users - industrial and residential<sup>48</sup>.

Despite the concerns that were evident about the impact of the LNG export terminals on domestic gas supplies and price, neither the Federal nor State Governments ensured that a thorough cost-benefit analysis was conducted or took any meaningful action to prevent a domestic gas shock. This represents possibly one of the greatest failures of governance this country has ever seen.

We further contend that the failure to conduct proper cost benefit analyses constituted a breach of the Terms of Reference for the projects in question and the decision to approve these projects without this vital information was fundamentally unlawful. For example, the Terms of Reference (August 2008) for the Santos GLNG project required economic costs to other industries and the wider community (Queensland and Australia) to be summarised in the EIS<sup>49</sup>.

The same information was required by the Terms of Reference (May 2009) for the QGC Queensland Curtis LNG (QCLNG) project<sup>50</sup>.

Despite the requirements contained in the Terms of Reference, there was no cumulative economic costs analysis provided by either GLNG or QCLNG for a proposed new LNG industry as a whole, and how an LNG export industry would affect other industries and the wider community in Qld and Australia. Also, the subsidies given to the CSG industry were not discussed.

Specifically, the EIS submitted by QGC in 2009, for the QCLNG project, did not contain an economic costs analysis associated with environmental impacts across QGC's proposed gasfields, nor an analysis of domestic gas price impacts on Queensland and Australia. Regarding domestic gas price impacts, the EIS simply states:

*"QGC believes Queensland CSG resources are larger than the domestic market can absorb. Therefore any increase in domestic gas price due to the export of LNG is expected to be minimal. In addition, increases in domestic demand are part of QGC's overall business plan: there will be no conflict between domestic and export demands."<sup>51</sup>*

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<sup>48</sup> <http://pdf.aigroup.asn.au/Deloitte%20Gas%20Market%20Transformations%20-%20Manufacturing%20Impacts%20Report%20-%20web%20final%20-%20July%2014%202014.pdf>

<sup>49</sup> <http://www.dsdp.qld.gov.au/resources/project/gladstone-liquefied-natural-gas/glng-tor-aug-08.pdf>

<sup>50</sup> Section 1.4.2 (p.17) <http://www.dsdp.qld.gov.au/resources/project/queensland-curtis-liquefied-natural-gas-project/curtis-lng-tor.pdf>

<sup>51</sup> Refer to QCLNG EIS Volume 1, Chapter 2 - *Project Overview*, Section 2.5.4.2 - *Economic Impact*  
[http://www.ggc.com.au/environment/environmental-impact-management/qclng-environmental-impact-statement-\(eis\)/vol-1-process-overview.aspx](http://www.ggc.com.au/environment/environmental-impact-management/qclng-environmental-impact-statement-(eis)/vol-1-process-overview.aspx)

The EIS submitted by Santos in 2009, for the Gladstone LNG project, did not contain an economic costs analysis associated with environmental impacts across Santos' proposed gasfields. Regarding Santos' LNG facility (refer to EIS Section 8.15.5), the EIS does not provide dollar figures on the financial losses to manufacturers and others (in Queensland or Australia) due to domestic gas price increases, nor does it calculate the number of job losses in manufacturing and other industries (in Queensland or Australia) as a result of domestic gas price rises. Rather, there are general and contradictory statements made (in EIS Section 8.15.5) regarding these matters, such as<sup>52</sup>:

- *"The GLNG Project is unlikely to have a significant adverse impact on any existing business in the project region in terms of their sales volumes"*
- *"the economic impact of the project causes output of some other industries in the economy to decline slightly"*
- *"world LNG prices will rise to reflect the higher costs associated with the purchase of emissions permits"*
- *"the direct impact on agricultural productivity is therefore likely to be negligible and, in any case, the project is required to pay compensation to landholders"*
- *"The large increase in exports associated with the project results in a slight appreciation of the real exchange rate, reducing the international competitiveness of other exporting and importing projects. This applies to industries throughout the Australian economy, including businesses in the project area. As a result, the profitability of these businesses will fall to some extent. However, given the size of the project relative to the overall economy... the impact on any one of these businesses will be very small. "*
- *"the economic impact analysis did not consider the economic implications of decommissioning of the CSG field infrastructure, the pipeline or the LNG facility"*

Simone Marsh, who was working for the Department of Infrastructure and Planning tasked with writing sections of the Coordinator-General's evaluation of the Santos GLNG Project EIS, wrote an internal department email to the Deputy Coordinator-General and the Assistant Coordinator-General regarding concerns with the LNG projects, on the 24 May 2010. She specifically stated that she was concerned that the long-term social and economic costs of the proposal had not been adequately assessed. Despite the inadequacies of the assessment being on the record in this fashion, the Coordinator General went ahead and approved the projects without any further assessments being sought or provided. The inadequacies identified by Ms Marsh were not included in the Coordinator-General's evaluation report of the project EIS.

The Federal environmental assessments of the APLNG, GLNG and QCLNG projects were all incredibly poor. We have reviewed a set of documents obtained under FOI, pertaining to the Federal decisions, including departmental advice to the Minister on the APLNG project. From these documents, it is evident that:

- ⤴ The documents indicate that there may be a significant impact on the Narran Lakes Ramsar site in NSW from the Queensland CSG proposals. This raises very serious issues of inter-state relations and legal rights. It also raises questions about Australia meeting its international obligations under the Ramsar convention.
- ⤴ The sheer scale of uncertainty with regard to the details of the projects and their impacts, as identified in the approval documents, is extraordinary. There is a genuine question as to how the Minister and the Department met their responsibilities under the EPBC Act to assess

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<sup>52</sup> [http://www.santoslng.com/media/pdf39693/08%2015%20Economics%20\(Section%208.15\)%20FINAL%20PUBLIC.pdf](http://www.santoslng.com/media/pdf39693/08%2015%20Economics%20(Section%208.15)%20FINAL%20PUBLIC.pdf)

impacts, given the high level of uncertainty. It appears to be a supreme abrogation of those responsibilities.

- ⤴ The scale of the projects, the lack of details contained in them, and the uncertainty in relation to impacts is unprecedented in our experience of EPBC approvals on the east coast of Australia. The approval of these projects effectively changes the nature of the EPBC Act from one of detailed impact assessment to adaptive management.
- ⤴ Santos and QGC approvals were given before the 'independent' water study required under s255AA of the Water Act 2007 was completed.
- ⤴ There are also a number of serious question marks in relation to the 'independent' water study under the Water Act 2007. The expert, Professor Chris Moran, was on his Sustainable Minerals Institute within UQ receives substantial funds from the resources industry. There are also questions as to the suitability of his expertise - given that he is a soil scientist rather than a hydro-geologist.
- ⤴ There is a marked lack of public consultation evident on the APLNG project – given the vast scale of the project, and the level of uncertainty, it is extraordinary that the Department recommends that there is no public consultation on the proposed decision, nor is there any public exhibition recommended in relation to the independent water study. In contrast to the lock out of the community, APLNG were given an opportunity to review and suggest changes to the proposed conditions before they were imposed, and were successful in having a number of them amended.
- ⤴ The lowest common denominator was clearly at play in the CSG approvals – one of the major issues raised in the Departmental brief on the APLNG project is that the Minister should effectively approve the proposal because he has approved similar projects previously. This is flawed logic and is not a relevant consideration under the EPBC Act 1999. Taken to its extreme, it means that the Minister must approve all future CSG proposals because they are similar to proposals he has already approved.
- ⤴ The Minister proposes to address the serious risks that Geoscience Australia have identified in relation to groundwater draw-down and cumulative impacts on the Great Artesian Basin by requiring re-injection of water when trigger levels are reached. However, there is no indication that any assessment has been done about the efficacy of re-injection.
- ⤴ The Dept appears to give undue weight to the estimated increase of gross product of \$2billion per annum and 9,900 direct jobs purported to derive from the project, and there is no consideration given to the costs of the project to agriculture, tourism and manufacturing, nor to the environment.

Key facts stated by the Federal Department in the approval documents for the APLNG project that raise major concerns include:

- ⤴ *"Relevant environmental impacts are diverse and numerous on a range of matters of NES across a geographic area of 570,000 hectares.*
- ⤴ *There are uncertainties about impacts of coal seam gas water extraction at the regional scale, including impacts on regional aquifers of the GAB.*
- ⤴ *There will be impacts on various listed threatened and migratory species from activities including clearing and dredging.*
- ⤴ *There is inherent uncertainties about the impacts of NES from surface water management and infrastructure (10,000 wells and 10,000km of gas gathering pipelines and roads/tracks).*
- ⤴ *There will be 100ML-170ML per day of water produced, and 2 million tonnes of salts will be brought to the surface over the next 30 years.*
- ⤴ *The location of infrastructure has not been determined with certainty, and the size of the gas field means it is not possible to identify detailed environmental impacts with precision.*
- ⤴ *It is not possible to predict direct impacts on native vegetation and thus on matters of NES*

*with any precision.*

- ⤴ *APLNG does not have definite proposals for the management of CSG water on the surface.*
- ⤴ *On the whole, these uncertainties and likely impacts are largely similar to those for the Santos and QGC project, which you approved under the EPBC Act.*
- ⤴ *We have recommended relatively similar conditions to manage the uncertainties and likely impacts as the conditions of your approval for those projects.*
- ⤴ *Geoscience Australia concluded that there are high levels of uncertainty in the predicted impacts of CSG extraction on groundwater and EPBC listed EECs.*
- ⤴ *Water Group found; risk of impacts on matters of NES from cumulative drawdown; risk of impacts to Narran Lakes through over-topping of brine storage ponds in flood events.*
- ⤴ *Advice from GA has indicated that due to interconnectivity between GAB and MDB aquifers, the proposed CSG developments have the potential to impact on the MDB. The proposals are also likely to cause land subsidence. As a result s255A of the Water Act 2007 will require that an independent study is undertaken. This study will not be completed in time for your EPBC considerations on the Santos and QGC proposals. Water study will rely on existing information, be conducted over 8 weeks, without public consultation.*
- ⤴ *There is potential for the Narran Lakes Ramsar site which is associated with flooding and precipitation to be impacted upon if the volume of water flow available to the site is reduced by depressurising aquifers and/or contamination of groundwater through CSG activities further upstream, therefore, it is likely that the proposed action may result in areas of the Narran Lakes Nature Reserve Ramsar wetland being destroyed or substantially modified."*

Despite all of these concerns, listed by the Department itself, it concluded that "*impacts on protected matters are acceptable with recommended conditions and having regard to the likely social and economic benefits*".