

Overview

Community Over Mining is a Gippsland community action group advocating for mining reform to protect the basic rights of landowners and communities for their well-being and future prosperity.

Our major issues of concern are:

- Poor regulatory frameworks and ability to ensure mining industry compliance and enforcement of breaches
- Health implications from breaches of licence conditions
- Ambiguous and ineffective legislation

I would like to address the following bill -

Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014

Although this bill is for implementation in Queensland and NSW, it is of relevance to my state of Victoria and elsewhere in Australia.

The most significant concerns I have with the *Bilateral Agreement Implementation Bill* are -

- Giving accreditation to the states to assess major projects without first ensuring each state has implemented reform of EES/EIS processes to ensure transparency and accountability
- The lack of a national standard in the approval process of agreed environmental outcomes.
- Poor existing regulatory assessments to strengthen major projects.
- Lack of appropriate mechanisms for monitoring, compliance of leading practices and reporting.
- Lack of transparency to ensure the principles of The EPBC Act is upheld to prevent health, economic and environmental impacts.

The Council of Australian Governments has prioritised the improvement of environmental assessment and approval processes across all jurisdictions to reduce regulatory burden. However, they have failed to ensure that the appropriate regulatory environmental legislation is in place first.

It has to be noted that, due to the nature of the risks and impacts associated with the resource industry, it should be imperative that the environmental regulatory process be robust. Yet, Australia is seeing too many accidents, spills, collapses, etc related to mining extraction with significant impacts on communities and the environment. It is for this reason that urgent reform of Environmental Effect Statement, Environmental Impact Assessment and/or Regulatory Impact Statements be completed and implemented.

In 2011 the ENVIRONMENT AND NATURAL RESOURCES COMMITTEE (ENRC) submitted their inquiry report into the Environment Effects Statement Process in Victoria.

Environmental Effect Reform would allow for triggers to be acknowledged (eg, flood zone, major river system and existing land subsidence) to prevent poor planning decisions on known environmental issues.

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Legislation strengthening reforms, if done correctly, will be what will provide better protection for industry investment and community liveability for any given area exposed to mining expansion.

At present, the majority of exploration or mining projects are approved without any requirement for a credible EIA process, and consequently without a credible and thorough assessment of environmental impacts. Without transparent and public processes, there is no evidence that an appropriate assessment of environmental impacts occurs, and certainly no way to scrutinise what actually does happen.

Currently, successive Victorian governments have failed dismally in protecting the environment from mining accidents and impacts which has resulted in considerable cost burdens to the taxpayer, let alone the major health impacts to surrounding communities. Mining progression, work plan variations, monitoring and compliance have not been based on clear legislative criteria and procedures.

Large mining impacts in Gippsland, Victoria.

- Regional Land Subsidence from depletion of the Latrobe Aquifer caused by past and present offshore oil and gas extraction in Bass Strait and dewatering of open cut mines in Latrobe Valley (See 2004 CSIRO *Falling Water Levels in the Latrobe Aquifer, Gippsland Basin: Determination of Cause and Recommendations for Future Works* by Tom Hatton)
- 2007 collapse of Yallourn brown coal mine's northern batter resulting in environmental damage with the diversion of the Latrobe River into the mine. (See The Mining Warden's report, *Mining Warden Yallourn Mine Batter Failure Inquiry*)
- 2012 collapse of Morwell River Diversion in Yallourn Brown Coal Mine. The River has been diverted six times in its history to access new coal fields. (See *Morwell River Diversion Collapse Environmental Risk Assessment*)
- 2014 Hazelwood Mine Fire and current inquiry

The primary objective of government assessment with large coal mining or CSG projects is to identify and assess the risks of likely environmental impacts, based on scientific evidence, proportionate to the scale of the proposal.

The following is the 2012 response from the Victorian Government to the ENRC report and recommendations. **As of May, 2014, and after requests to Government, these recommendations are still to be implemented. Meanwhile, we are supposed to have trust in the government that they will do right by the environment and for the environment.**

Victorian Government Response to the Report of the Environment and Natural Resources Committee on its Inquiry into the Environment Effects Statement Process in Victoria

The report of the Environment and Natural Resources Committee (ENRC) Inquiry into Victoria's Environment Effects Statement (EES) process has recommended comprehensive reform, noting that the need for reform is both widely recognised and overdue. The Inquiry determined that reform would establish much-needed legislative clarity and provide a more robust basis for protecting Victoria's environment.

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Having regard to ENRC's recommendations, and the three priorities above, the Victorian Government will proceed with reform of Victoria's EIA framework, including necessary legislative changes, on the basis of the following elements:

- *EIA processes will be reformed to provide certainty for all parties about processes, considerations and timeframes*
- *The reforms will be grounded in a clear set of objectives to guide their implementation*
- *A tiered suite of EIA processes will be developed to enable efficient assessment of project proposals with a variable potential for significant environmental impacts*
- *The reforms will embody principles of fairness, including for third party rights, as well as for reviews of key procedural decisions*
- *Opportunities will be addressed for establishing clear links between the outcomes of the EIA process and regulatory decision-making under applicable laws, as well as compliance oversight by relevant bodies, to both drive improved environmental outcomes and streamline overall regulatory requirements*
- *The reforms will provide an option for enabling the assessment of strategic proposals that are wider in scope than individual projects, where this would offer both efficiency and environmental benefits.*

In Victoria, mining is exempt from the protective legislation and principle objectives of the Planning and Environment Act 1987 so our only recourse is for the discretion of the Victorian Government Ministers to apply a deficient environmental standard process in any assessment for mining projects.

Will the Federal Environment Minister be satisfied that the accreditation of such legislation in Victoria would uphold the objectives of the EPBC Act

If regulatory processes are not followed in each state, how then can the Federal Government assure our communities that any bilateral agreement will have no significant negative impacts on regional biodiversity, which would be contrary to the objectives of the EPBC Act.

In regards to national standards of environmental assessments, should not the Federal Government ensure the delegation of environmental powers to the states will improve standards to achieve a consistent and coherent assessment process for all? This would be more appropriate in reducing regulatory burdens and confusion between states.

Until the States can show that their regulatory mechanisms and practices are strong enough to protect the environment rather than just streamline a process, it would be foolhardy of the Federal Environment Minister to implement a bilateral agreement to give States control on future assessments for large coal and CSG mining projects.

Yours Sincerely

Tracey Anton