

From: [REDACTED]
To: [EPSC EPSC](#)
Subject: response to WATER AMENDMENT BILL 2019
Date: Friday, 8 March 2019 7:23:43 PM

Attention: Dr Jennifer Buckley, Committee Secretary, Economic Policy Scrutiny Committee

Re: WATER AMENDMENT BILL 2019

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I welcome this opportunity to address the Water Amendment Bill 2019.

I recommend the Bill should not pass parliament, as it is a component of a wider plan to regulate and thereby facilitate a wildly unpopular and unwise industrial threat: to risk our precious finite potable water resources in order to pump climate-wrecking methane into our atmosphere as fast as possible. I further note that the Bill presents an unacceptable perverse exemption that runs counter to the stated intention of meeting recommendation 7.9 of the Pepper inquiry, rendering the it unfit for purpose.

I write as a Territorian who has participated fully in all public processes surrounding the mad scheme to frack the NT, including:

- last year's amendments to the Water Act – which this Committee declared was the wrong context for addressing issues related to pollution from fracking waste
- the Hawke inquiry – which highlighted the unacceptable exemptions of petroleum activities from the Water Act's pollution penalties; and
- every stage of the Pepper inquiry - which reported that the likely contamination of local aquifers remains unaddressed, and must be investigated by subsequent regional assessments.

I recommend that instead of passing the Bill as drafted, the Assembly should amend the Bill to ensure that the frackers don't get to extract, nor risk, any of our tenuous water resource.

I warn that the incumbent risks are so unacceptable that this Bill, and the wider program, represent a betrayal of the fundamental right to life of any individual that depends on that water resource.

I offer that the Bill, and the industrial threat it serves, demeans the parliament.

Nonetheless, given that government requires that we continue to seriously deliberate over this obscenity, I'll also take the opportunity to address it on its own detriments. So let's suspend common-sense, and instead focus on how poorly this bill addresses the stated objectives.

We are advised, in the EM, that:

The purpose of the Bill is to give effect to relevant recommendations

including:

prohibition on re-injection of hydraulic fracturing wastewater into aquifers

- and yet on inspection of the Bill, we find that 17B offers the expansive caveat that the newly defined penalties do not apply if the:

waste comes into contact with ground water during the process of hydraulic fracturing

This highly significant exception is entirely at odds with the intent of the specific recommendation, and the spirit of the final report in toto.

Applying the most generous reading possible, it appears the intent is to disallow dumping waste, while facilitating reuse. But in doing so, we arrive at the perverse specific permission to contaminate groundwater in the course of fracking with that reused fluid.

I dearly hope that, upon reflection, we can all agree that this is simply an unintended counter-productive side-effect, that must not be passed into law.

However, it could also be read as cementing in and extending existing exemptions in the Water Act (1992) in section 7 (Application of Act to mining activity or petroleum activity), which declares that prohibitions on pollution do not apply to:

waste that comes into contact with water ... in the course of carrying out a petroleum activity [if] the polluted water is confined within the petroleum site

Despite calls from the public, this explicit permission to pollute was left untouched by last year's amendments, and appears to be reinforced by this Bill.

Are Territorians to understand that this government is amending the Water Act to specifically exempt frackers from liability for any contamination of groundwater caused in the course of their primary activity?

When these concerns were raised last year in the context of the Water Legislation Amendment Bill 2018, the Department responded that:

waste discharge and pollution control measures were determined to be out of scope ... because these measures are part of a larger review of environment protection legislation and at some time in the future they will be removed from the Water Act and replaced by an overarching piece of legislation

- and this Committee endorsed and reiterated their assurances.

However, this logic falls apart in the context of the Bill before us, which now considers the Water Act the correct home for the pollution control measures of the Pepper Inquiry's final report recommendation 7.9, and actually adds additional exemptions to the same Act.

While there may be some rationale to maintaining interim consistency by retaining the old exemptions while we await the imminent environment protection legislation, there can be no such necessity in relation to the proposed section 17A.

It might appear, then, that this new amendment is intended not as a stopgap, but a permanent fixture, providing the frackers with a significant loophole for their potential contamination of our groundwater.

Further, those of us who have been playing along so far are left to reassess the veracity of

the assurances we were delivered by this same Committee last November.

Can this industry proceed without such gross provisions for routine contamination of groundwater?

As stated earlier, I've endeavoured to participate fully in all formal processes relevant to this government's insane plan to allow fossil fuel exploiters to risk our precious water resources, while exacerbating runaway climate chaos. Each step I've taken has been less sure. At each juncture the collective mind of government driving us over this cliff seems more deranged.

So I urge the Committee to recognise this flawed Bill as an opportunity to put on the brakes, slow this vehicle down, and encourage those around you to steer a new direction.

Justin Tutty

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