

Submission to the Productivity Commission

Major project development assessment processes

2013

Submission from
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Introduction

Doctors for the Environment Australia (DEA) is a voluntary organisation of medical doctors in all Australian states and territories. We work to address local, national and global health effects caused by damage to the Earth's environment.

The medical profession has a proud record of service to the community. This record not only includes personal clinical care, but also involvement in global issues that threaten the future of humanity. We aim to use our scientific and medical skills to educate governments and industry, the public and our colleagues to highlight the medical importance of our natural environment. In effect, we function as a public health organisation.

DEA is concerned about the health impacts of major developments resulting from environmental pollution and degradation, social stressors and the effects of climate change. In the current regulatory process, consideration for health in the approval process of major developments is often lacking when it should be a priority.

The Productivity Commission's discussion paper has little to say about human health impacts. We aim to demonstrate in our submission that wherever major projects have an impact on the environment, it is also likely to have an impact on human health. The costs in human health terms that arise are typically not included or are underestimated, and not costed.

DEA is concerned that the Commission has not recognised the importance of protecting human health in its considerations. In our submission, we describe the need for improved regulatory outcomes and the risks associated with reforms that do not achieve this. We also describe why DEA would be pleased to see the Federal Government take a stronger interest in approval processes by forming a lead agency, as long as the agency is charged with getting better regulatory outcomes for the environment, communities and their health.

The case for enhancing regulatory outcomes

The Commission is considering ways of improving the major project development assessment processes to, "overcome any unnecessary regulatory burdens ... without compromising the achievement of good regulatory outcomes." (p.4) The implication here seems to be that good regulatory outcomes are currently achieved by regulations, and some of these regulations are unnecessary. DEA disagrees with this premise because in spite of regulations, outcomes of major projects for the environment and human health are typically poor.

There may be ways of streamlining the approvals process for proponents, but this should never be done at the expense of the environment and human health. In fact, protection of these values needs to be enhanced. Exposure to air pollution, contaminated water and soil is happening in many parts of Australia today. Australians are suffering ill health and Australia is incurring an economic cost because of grossly inadequate assessment and management of the health and environmental effects of developments.

The body of knowledge about the external costs of developments is growing internationally. It would be prudent for Australia to implement methods of measuring the externalities so the true costs of developments' environmental and health impacts are understood.

Better protection of the environment and health would not only be a desirable social good, but would minimise a range of external costs of the project including; increased healthcare burden, diminished land value for conservation or sustainable land uses, and greenhouse gas emissions.

Failure of State Governments to protect health

DEA has done considerable investigation and research into the health impacts of resource projects such as coal and coal seam gas. DEA observes that State Governments often do little to protect the environment and human health in their approval processes, sometimes preferring to fast track approvals for short term economic gain. As a consequence, Australia has communities living with contaminated water and air pollution causing respiratory and other diseases, with little regard to the long term impacts and costs that are borne by those communities and other sectors.

We note examples of State Governments avoiding their responsibilities to protect the environment and human health by:

- poorly resourcing State environmental protection agencies (EPA)
- transferring or absorbing environmental protection into other, often less appropriate departments
- selecting weak terms of reference for EIA
- removing decisions from the aegis of the EPA
- preparing EIAs by so called 'independent' companies which favour the proponent
- withholding health advice from public scrutiny and using and using 'gag orders' for interaction with outside experts. theconversation.edu.au/censoring-public-health-in-queensland-a-dangerous-precedent-9733?utm_medium=email&utm_campaign=Latest+from+The+Conversation+for+26+September+2012&utm_content=Latest+from+The+Conversation+for+26+September+2012+CID_b45f3a63a39ff7f81ac12a2c1c23f83c&utm_source=campaign_monitor&utm_term=says%20Mike%20Daube
- altering the decision making process to favour the development
- Creating legislation to reverse outcomes that don't please the State Government. For example, recent changes to favour development in Queensland and New South Wales with the Planning Assessment Commission climatespectator.com.au/commentary/premier-newmans-coal-ition-government?utm_source=Climate+Spectator+daily&utm_medium=email&utm_campaign=Climate+Spectator+daily&utm_source=Climate+Spectator&utm_campaign=cc68119be3-CSPEC_DAILY&utm_medium=email

A comprehensive report on these matters will be available from DEA shortly.

The need for health impact assessments

Change to the environmental impact statement (EIS) process inevitably involves assessment of human health impacts. The health impact assessment (HIA) is an integral part of the EIS and development approval process. It is in the interests of proponents, governments and communities that health considerations are proper and not subject to arbitrary change.

In general, the track record of the States is poor. Health Departments are poorly resourced and there is a lack of a consistency in approach and application of HIA across Australia leaving some communities less protected than others. Decision-making is not always transparent, proponents are not required to be accountable for impacts on communities and formalised appeals processes are not available. As doctors it is our duty to ask that reforms are introduced to improve health outcomes rather than relegate them further.

There is a well researched and internationally accepted protocol for the assessment of health impact of developments. When functioning independently and with adequate resources, a HIA process can provide appropriate consideration of both positive and negative health issues arising from developments and highlights equity, sustainability and community engagement. This balance must be assessed during the planning phase and before projects proceed.

Health professionals have been advocating for appropriate use of HIA for two decades. In 2001, the Federal Government released guidelines to promote the merit of HIA and guide project proponents on an appropriate process. The States sometimes avoid implementing it. The guidelines languish with no revision and without being reflected in federal or state legislation.

DEA would like to see the HIA guidelines adopted as a mandatory component of project development approvals.

The role for a lead agency

DEA recognises the difficulties that arise from different levels of government being involved in approval processes. The overlapping and sometimes contradictory requirements often don't serve the proponent and don't serve the community. Health hazards are related to the type of project, wherever the project may be. Coal dust is coal dust. Contaminated ground water is contaminated ground water. The fact that every State and Territory develops its own standards for pollution is nonsensical and means the health of some Australians are protected better than others.

In recent years, the Commonwealth Government has been withdrawing from involvement in approvals of major projects, increasingly leaving it to the States. The recent establishment of an Expert Scientific Committee on coal seam gas and large coal mining projects can be seen as a necessary response to dilatory assessments being conducted by the States. Indeed it is apparent that some ground water assessments have been "pretty poor" according to a member of the Committee

<http://www.abc.net.au/rural/news/content/201304/s3740603.htm>

DEA is of the firm view that the approval processes should be managed nationally and would support the establishment of a lead agency for major projects approval processes. The need for more independent input and Commonwealth oversight of industrial developments is great and the road to achieve it will require vision and commitment from policy makers.

It is important for Australia to know the full impacts of developments. Communities sometimes pay a high price with their health, livelihood and longevity when developments are approved with inadequate protection. There is a corresponding cost to the nation for increased healthcare and environmental damage. Protection of communities' long term interests is necessary for the country and for the proponent's social licence to operate.

The approvals process needs to take into account the external costs to the environment and human health created by projects. The externalities need to be calculated and assessed by a lead agency. The onus should be on the proponent to engineer their project such that the environment and human health are protected. There is a growing body of knowledge about calculating externalities and this should feature in Australia's assessment processes of major projects.

Australia requires national oversight of any projects that have an impact on the environment; air water or soil for these are our core assets which are the foundation of public health. It is important that the Commonwealth retains and uses its environmental powers under the Environmental Protection & Biodiversity Conservation (EPBC) Act.

The recent move to amend the EPBC Act is designed to allow the Federal Government to intervene in developments where there is a significant impact on groundwater. DEA would like to see this implemented to overcome the current problems of under-regulation by the States

regarding water.

Features of a lead agency

The Commission describes the Canadian Major Project Management Office as a possible model. In principle, DEA sees merit in having such a lead agency to manage approvals. But it will be important to ensure the body is indeed a *management* body and not a *development* body with a mandate to rush approvals through without adequate consideration of environmental and health impacts of projects. A lead agency would need to be funded at arms length from industry and government to avoid conflicts of interest.

In 2001, the Federal Government released guidelines to HIA as a guide for protecting health as part of the approvals process. The States avoid implementing it to varying degrees. The lead agency should be charged with implementing and managing the Federal Government's own Health Impact Assessment guidelines. Department of Health and Aging, [Health impact assessment guidelines](#) 2001.

Strict air and water pollution standards, greenhouse gas emission standards, regulating fracking processes and chemicals should all be in the remit of a lead agency promoting uniform national standards.

The agency should factor in the external costs of any project, taking into account health, social and environmental impacts.

The lead agency oversight should include;

- Expert advice from health professionals to determine whether proposals require HIA
- Screening that is independent in the same way that the Office of the Commonwealth Director of Public Prosecutions (CDPP) or State DPPs are independent services
- Expert advice from health professionals to inform the terms of reference for HIA
- HIA of existing projects that plan to expand
- Findings and recommendations of HIA health impacts with specific measures to remove or mitigate negative and enhance positive health impacts
- Total costs of projects including externalities such as healthcare and environmental degradation
- Costing of greenhouse gas emissions that occur overseas from Australian resources (Scope 3 emissions)
- Transparent decision-making
- Ongoing monitoring funded by the proponent
- Proponents held accountable for impacts on communities and penalties for compliance breaches.

The USA has a national body; the US Environmental Protection Agency (USEPA). This body has oversight of the environmental impacts of projects.

Other reform ideas

The Commission has described other reform ideas which have an effect on environmental and health outcomes. Increased transparency, well resourced agencies, accountable decision makers, appropriate opportunities for public participation and review of decisions would all be very valuable.

Automatic approvals

DEA recognises that proponents incur additional costs for delays and that they find the EIS process onerous. The Commission has cited some examples of the financial cost to proponents of compliance. DEA would suggest such examples only look at one side of the ledger. The cost of *not* properly assessing and managing the environmental and health impacts is not discussed in the Commission's paper and remains an unknown, un-costed variable.

The Commission is considering "statutory time frames for decision making and 'deemed' automatic approvals after a certain period." (p.20) DEA objects to setting time frames for approval. This is would easily be exploited by proponents. Any delays, whether because the proponent has not demonstrated its compliance or capacity or because the authority has not completed its review, means an automatic green light.

Proponents would likely find this highly desirable as there is a perverse incentive for delay and non-compliance, but the outcome for the environment and human health would inevitably be far worse. There are no circumstances where approvals should be granted automatically simply because a certain time has elapsed. Approvals must only be granted on the merit of the project.

Conclusion

The current regime of State controlled approvals is failing to deliver sound outcomes for the environment and human health. DEA would be pleased to see the establishment of a national lead agency charged with managing approvals of major developments. It should manage the EIS process for all major developments in Australia and implementing the Government's Health Impact Assessment Guidelines to be part of the EIS process. Such an agency should work in the interests of Australians when assessing projects, and not be beholden to governments or proponents. Increased transparency, formal involvement of medical expertise and costing externalities are all-important reforms. The time taken to approve or not approve a project must not be mandated due to the exploitation opportunities it sets up.

DEA has extensive knowledge of various developments across Australia where proponents and State Governments have put aside health and environmental issues in order to secure short term gains. If the Commission would like to review compelling information about the need for reform, DEA will be pleased to supply it.