

October 22, 2009

Environment Minister Peter Garrett,  
PO Box 249, Maroubra NSW 2035  
Email: [Peter.Garrett.MP@aph.gov.au](mailto:Peter.Garrett.MP@aph.gov.au)  
Fax: 02 6273 6101

Dear Honorable Minister,

Before you decide on the Traveston Dam EPBC Act controlled action referral I ask that you consider the ability of the proponent to abide by their commitments.

The proponent has already demonstrated by its own actions that Queensland planning policy conditions have little to no legal enforcement in terms of long term environmental value protection. Consider this, the proponent has already set aside the States legislative protection of good quality agriculture land to allow this dam to proceed. A legal constraint that has already been disregarded.

Queensland State Planning Policies (SPP) are an act of parliament. They were created to ensure that valid scientific determinations were legally enforceable upon developers. Based on years of scientific assessment and planning legislation consultation, the State issued what is supposed to be one of its premium State "conditions" of conducting a development. The proponent for the Traveston dam has managed to completely override and ignore that "condition" on a scale which can only be considered a contravention of an object of the Integrated Planning Act.

Now the proponent is asking that you approve the development on the basis that it will comply with the 1200 conditions imposed by the coordinator general. These conditions will be regulated by the same legislative framework that created the SPP that was so easily contravened. In fact a key condition you will rely upon (Schedule C – 9) is intrinsically linked to a State Environmental Protection Policy (EPP) for Water. An EPP and SPP have similar statutory standing. Hence the EPP you rely on could be disregarded based on previous experience for this project.

I implore you to carefully analyse the 1200 conditions you have before you. You will find that most of the species or ecological mitigation mechanisms have been "left" for a later date by way of requiring a yet to be submitted management or monitoring plan. This is a common tactic when the proponent is unsure. The proponent has not been supplied any conditions related to bio-indicator based performance such as taxa-biodiversity monitoring against EIS baseline studies. The proponent has only offered the standard physico-chemical indicators which will be easily debated and according to Schedule C Condition 9 (e) can be requested to be removed. The link between these physico-chemical indicators and the actual species protection you are required to enforce is omitted.

In short, out of the 1200 conditions, what condition specifies the allowable reduction in the population of each of the controlled action species you are supposed to protect? There is not even a condition scientifically assessing biological populations. Another river will receive a dam without any measurable ecological objectives. In addition do not rely on the environmental flow objectives. Read between the lines of this statement by the coordinator-general:

*"The Project would be **new infrastructure** on the Mary River **not necessarily envisaged** when **EFOs were set**. I consider that it is therefore important to consider the underlying requirements addressed by the EFOs and to ensure that any alteration to flow regimes because of the Project achieve acceptable environmental outcomes."*

The EFO assumptions used in the hydrology modelling may not manage the ecological impacts.

Based on the above and my personal experience in the field, I suggest that you have been presented a long list of conditions that have little relevance to actually guaranteeing ecological mitigation measures will be openly and scientifically measured. The coordinator general (and contributing departments)

often ensures there is a long list of conditions irrespective of whether they have legal credibility or are actually enforceable. The fact is that there are projects where these types of conditions are never checked and as time passes the willingness to pursue these conditions wains, unless the community spends countless hours and personal effort monitoring them.

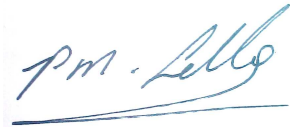
As an environmental practitioner who specialises in tracking legislative requirements and their implementation through management systems, the 1200 conditions are fairly meaningless in terms of environmental protection unless they stipulate upfront the clear measureable targets that specifically relate to the impact being mitigated. In this case rare or vulnerable species protection.

Then the final question you have to consider is what will happen if a condition is not complied with? What if the mitigation proposed by the conditions fails or the final "submitted management plans" guarantee nothing?

As for the argument, SEQ must have the water for the 4 million people, it just goes to prove that the planning mechanisms we have in place have no environmental based solutions, only the standard old regime of utilize whatever resources we have to satisfy the need for unsustainable regional growth. Where does the planning say you are permitted to degrade riparian ecosystems to have achieve ecologically sustainable development?

You have a choice. Support a flawed system that ridicules the environmental laws or implement the object of the Act that you have been empowered to administer.

Yours sincerely,

A handwritten signature in blue ink that reads "p.m. Lello". The signature is written in a cursive style and is underlined with a single horizontal line.

Peter Lello

M.Eng.Sc (Chem), BSc (Hons), Dip Ed. M EIANZ

Carina Heights, Queensland