

Background brief: ACF challenge to Adani's water pipeline

SUMMARY 5 DECEMBER 2018

Adani's North Galilee Water Scheme (NGWS) is critical project infrastructure for its Carmichael mine. The NGWS involves a proposed 110 kilometre pipeline from the mine site to the Suttor River, an ephemeral water source, in central Queensland.

Adani has a water licence from the state government to take up to 12.5 billion litres from the Suttor River for use at its mine. However, this project has not been approved federally.

In deciding the assessment process for the project under Australia's national environment law, Environment Minister Melissa Price elected not to apply the 'water trigger'.

The water trigger is a federal process that applies to large coal mining developments and coal seam gas to ensure the impacts of these projects on Australia's water resources are fully scrutinised.

ACF is challenging the Minister's failure to apply the water trigger to Adani's pipeline.

Adani's North Galilee Water Scheme

The proposed NGWS is located approximately 160 kilometres north-west of Clermont in central Queensland. It would involve water harvesting and transportation infrastructure to collect flood water from the Suttor River, of the Burdekin Basin catchment, in central Queensland. The water will be stored in a 10 gigalitre dam, upgraded from 2.2 gigalitres (the Belyando Junction Dam), before being pumped along an approximately 110 kilometre pipeline to the site of the proposed Carmichael coal mine.

Adani is currently licenced, by the Queensland government, to take 12.5 gigalitres of surface water from the Suttor River. The company will use this water for the primary purpose of mining operations at the Carmichael mine (i.e. coal washing and dust suppression). Adani's EPBC Act application also considers that the NGWS could be used to supply water to other coal mines in the Galilee Basin, including Alpha North and China Stone. The China Stone coal mine was recently green-lighted by the Queensland Coordinator General.

ACF's legal challenge

On 11 September 2018, the Environment Minister decided the assessment process for the NGWS under the EPBC Act. Minister Melissa Price decided the project would be assessed for possible impacts on listed threatened species and communities. However, the Minister did not require an assessment under the 'water trigger', which is specifically designed to protect Australia's precious water resources from the impacts of large coal mining developments.

Under Australia's federal environment law, the water trigger applies to large coal mining projects. 'Large coal mining development' is defined as any 'coal mining activity that has, or is likely to have, a significant impact on water resources'.

In the Minister’s statement of reasons (i.e. the document outlining the rationale for the decision), the Environment Department argued that ‘coal mining activity’ must involve the *extraction* of coal. The department concluded that because Adani’s pipeline is associated infrastructure, not the mine itself, the water trigger did not need to be applied.

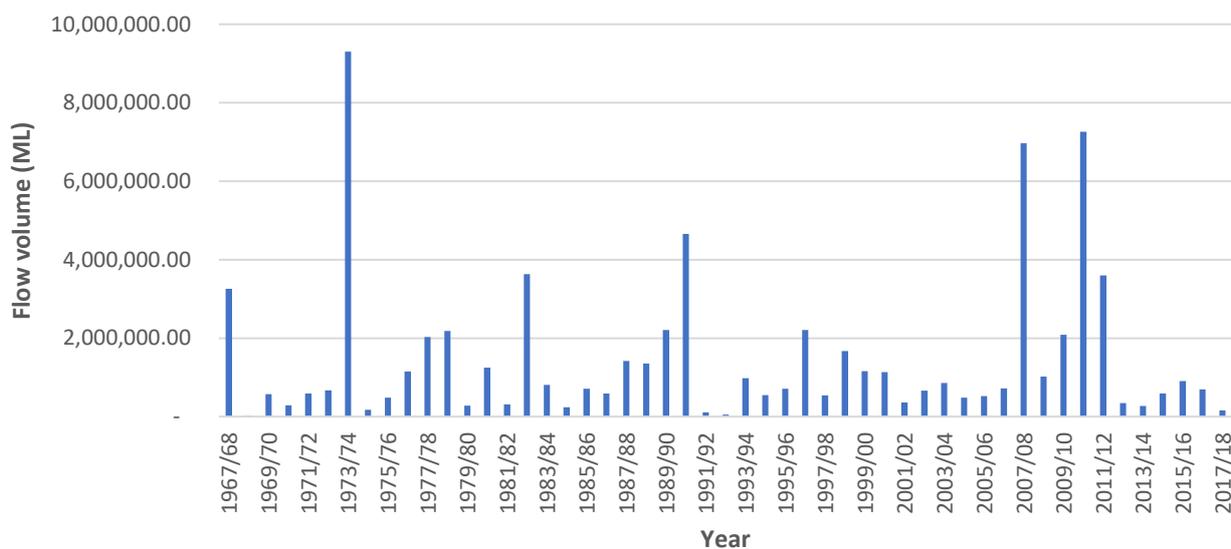
ACF is challenging this decision on the basis that it involved an error of law.

ACF will argue that the definition of ‘coal mining activity’ extends to actions that are directly connected with a large coal mining project, including water pipelines like the NGWS. It is clear from the documents provided by Adani to the Environment Department that the sole purpose of the pipeline is to service the Carmichael mine – a ‘large coal mining development’. Therefore, ACF believes the water trigger should have been applied to the pipeline infrastructure.

The Suttor River

The Suttor River forms part of the Burdekin River catchment, in Central Queensland. The Suttor River is ephemeral in nature, with flow generally only occurring for a few weeks or months per year. It is not uncommon for more than 80 per cent of the annual river flow to occur between December and April. Historically, annual flow volumes for the Suttor River are highly variable. In wet years, the river can transport over 2,000 gegalitres downstream. However, in dry years, there may be close to no flow at all.

Figure 1. Historic total annual flow volumes for the Suttor River



Farmers and the environment rely on the Suttor River. Downstream of Adani’s pipeline extraction are numerous wetlands and lagoons, including the Scartwater Aggregation – a listed nationally important wetland. It is not known what the impact of Adani’s pipeline will be on these downstream environments because the water trigger has not been applied to require Adani to conduct a proper environmental assessment. Indeed, a submission to the assessment process from the Department of Agriculture and Water Resources noted that:

“Water assessments, including the establishment of robust baseline data on surface and groundwater in the project area, should be carried out in accordance with management plans and made publicly available.”

ACF is very concerned that the Minister in making her decision has not considered the impacts of the NGWS on the environment and other water users. The water trigger must be applied to make sure the impacts of Adani’s pipeline are fully scrutinised.

Frequently asked questions

The Department's guidelines say the water trigger doesn't apply to associated infrastructure such as pipelines – why do you believe it does?

The Department's guidelines are an interpretation of the EPBC Act – they do not supplant the Act itself. The water trigger was introduced in to the EPBC Act in 2013. Materials accompanying the relevant Bill referred to the impacts of large-scale coal mining on water resources. They considered the use of water 'for processing and dust suppression and other mining activities' as a necessity of coal production. We say this demonstrates the intention of the Parliament to capture projects like the NGWS, which involves water extraction for the necessity of servicing a large coal mine.

Isn't it the case that Adani will only be allowed to take water from the Suttor River when it is in flood and after other water users such as farmers?

As an ephemeral stream, the Suttor River is influenced by the wet-dry rainfall cycles of central Queensland. That means there is usually either a lot of water or not much at all. The environment and other water users like farmers are dependent on these wet-dry cycles as well.

Adani proposes to take almost as much water as other users combined (excluding the environment). We won't know what impact Adani's water take will have on the Suttor River (and the people and ecosystems that rely upon it) until the water trigger is applied and a full environmental impact assessment is conducted.

The Queensland Government has already approved Adani's water licence. Haven't impacts on the Suttor River already been considered?

The state and federal governments consider different issues when deciding to issue water licences or approve projects. Federally, the Environment Minister is responsible for protecting 'Matters of National Environmental Significance', as listed in the EPBC Act. One of the matters that must be protected under the Act is water resources impacted by a large coal mining or coal seam gas projects.

Adani announced it will self-finance its mine – how will this case affect its plans?

Adani has stated it needs at least 10.5 gigalitres per year to run its mine. It needs this water to reduce dust on the mine site and wash the coal. The NGWS is a crucial federal approval that is required before the project can start exporting coal.

If ACF is successful, what would this mean?

The Environment Minister will be required to re-make her decision and apply the water trigger to the assessment of Adani's pipeline. Then, the Minister must seek the advice of the Independent Expert Scientific Committee, which provides scientific advice to decision-makers about the impact that large coal mining development and coal seam gas may have on Australia's water resources.

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