

TITLE: Playing dice with the environment

AUTHOR: Richard Denniss

PUBLICATION: Australian Financial Review

PUBLICATION DATE: 07/10/14

LINK: <http://www.afr.com>

When it comes to protecting Australian citizens and our economy, most politicians adopt the “precautionary principle”: that it is better to be safe than sorry. Despite the budget emergency, an extra billion dollars was found this year for national security agencies and our third war in Iraq. Few complained.

However, when it comes to protecting citizens and our water supply from exposure to the dangerous chemicals used to extract coal seam gas (CSG) the same politicians who think you can never be too careful when it comes to terrorism are more than happy to roll the dice.

Of course, it is not just politicians who are inconsistent. The business community usually support “uniform national approaches” to regulation. When it comes to infrastructure planning, industrial relations and consumer protection laws, the representatives of big business have argued successfully that a national approach is needed. But when it comes to environmental regulation the same groups think it is OK to leave decisions to states.

The Abbott government has proposed a “one stop shop” approach to environmental protection to reduce so-called “green tape” and speed planning. The Commonwealth will no longer have oversight for a wide range of developments and it will be left to state governments to consider the national benefit.

The idea that business and the economy always benefit from reducing regulation and speeding developmental approvals has become so widely accepted in Australia in recent years that it now passes for common sense. But history tells us that common sense is commonly flawed.

Former Treasury secretary Ken Henry, now NAB and ASX director, recently observed that one of Australia’s most important assets is its international reputation for strong regulation and lack of corruption. Rather than being a cost to business, Dr Henry argued that reliable, consistent and predictable regulation is good for business.

Regulation for the national interest

It is obvious that the proponents of new mines or CSG projects want their proposals approved quickly – it is in their interests. But the purpose of regulatory approval for a major development isn't to determine if it is in the proponent's interests, but whether it is in the national interest. Downstream water users care what happens upstream. Downwind farmers care what miners do upwind.

It's easy to make quick decisions, and it's easy to make cheap decisions, but, as any corporate lawyer will tell you, it isn't easy or cheap to make good decisions. If the Abbott government and the business community were singularly focused on reducing costs and speeding decision making then they could move to abolish appeals to the High Court, or set a one-week, or a one-day, deadline on all commercial court cases. That would deliver savings and speed things up a fair bit – but decision-making would suffer.

The NSW government recently decided to revoke the mining exploration licences granted at Doyles Creek, Mount Penny and Glendon Brook. The NSW Independent Commission Against Corruption said that the decisions to issue the licences, quickly made, were so “tainted by corruption” that they should be expunged.

Last year the Western Australian Supreme Court found that the environmental approval granted to the enormous Browse gas hub in the Kimberley was invalid as the WA Environmental Planning Authority had allowed three of its members with declared conflicts of interest to participate in the decision. The Supreme Court ruling threw 10 years of other decisions made by the EPA into doubt.

Protecting Australians, and their natural resources, is the job of government. So too is protecting one industry from the actions of other industries. And only the Commonwealth government can ensure that the decisions made by one state are genuinely in the national interest.

The Great Barrier Reef, the Murray-Darling river system and the Great Artesian Basin are not just national treasures, they are national resources. Industry groups who think we need a national approach to infrastructure planning should explain why they are comfortable leaving decisions about our natural resources to individual states.

No one complains about duplication when it comes to national security – we have both federal and state police. Why complain about other regulation? Not all risks, it seems, were created equally.