

Northern Territory Environment
Protection Authority
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Dear NT EPA

I am a lawyer based in Darwin and I have been following the Singleton horticultural proposal of Fortune Agribusiness closely and with grave concern. I have worked with Indigenous communities across the Top End for over five years and I am currently working as a regional lawyer at the Northern Land Council.

I note that it is mandatory for the NT EPA to consider a number of factors when determining the method of assessment under the Environment Protection Regulations 2020 (NT) (the Regulations). This includes an assessment of the impacts, the confidence of the predicted impacts, mitigation, community engagement, and community consultations per cl 59.

As I outline further below, impacts factors in this referral include:

- The context in which this referral is made;
- The enormous impacts of the project on the environment, noting the sacredity of water in the region and that Fortune Agribusiness is being gifted our public asset for free;
- The risk of desecration of sacred sites; and
- The difficulty of monitoring and assessment once the project commences.

It is on this basis that I urge you to consider the highest level of scrutiny of this major project.

Context of the referral

As a member of the Northern Territory legal community I would like to draw your attention to the context in which this EPA referral is made in light of:

- The failure to adhere to procedural fairness in the granting of the water licence;
- The erosion of the rule of law by introducing new laws and regulations to simplify the procedural hurdles for the Northern Territory Government and Fortune Agribusiness to follow;
- The failure to consider Indigenous cultural values in the granting of the water licence by the Northern Territory Government; and
- That the issue of the lawfulness of the water licence grant is still before the Northern Territory Supreme Court.

These factors enliven many aspects of cl 59 of the Regulations but particularly the level of confidence in predicting the potential impacts of the proposal given the lack of assessment of cultural values and groundwater ecosystems and the ineffectiveness of community consultation.

Significant environmental impacts in a context of water scarcity

Fortune Agribusiness' self-assessment of the environmental impacts are troubling. As this is Australia's largest grant of water licence, I have serious doubts regarding the accuracy of Fortune Agribusiness' assessment of risk. They have classified every residual risk rating as 'low' or 'medium'. Again, this appears to be in conflict with the considerations of cl 59 of the Regulations as there is low confidence in Fortune Agribusiness' current assessment of risk.

It is unclear how climate change impacts will impact groundwater systems with this level of water extraction. Singleton is located in a semi-arid environment and it is predicted that the water table would be lowered by up to 50 metres in parts of the aquifer. Some groundwater dependent ecosystems will collapse if the water table drops by 10 metres. This is significant environmental damage.

This is a water scarce environment and the Northern Territory Government has offered to give this asset away for free to private enterprise. This context further adds to the significance of the proposal as it's a decision which will greatly impact generations to come as Fortune Agribusiness have exclusive use to a public asset where there is no stipulated public return or benefit. Reports note that there are likely to be less than 40 NT jobs created out of this enormous project.

Desecration of sacred sites

Fortune Agribusiness' modelling indicates that the drop in the water table will impact numerous groundwater dependant sacred sites in and around the drawdown area. The desecration of sacred sites is a crime and prosecution for criminal offences may be brought by the Aboriginal Areas Protections Authority.

The destruction of sacred sites may also conflict with anti-discrimination laws given its impact on affected Aboriginal peoples.

Difficulty of monitoring and assessment

Monitoring and assessment are insufficient alone to ensure the protection of the environmental and other impacts. Once the environmental damage occurs it will take the environment an extremely long time to recover. Groundwater recharge in the Western Davenport region is "highly episodic" and "rare, peak rainfall years contribute disproportionately to groundwater recharge while in an annual year, minimal, if any, groundwater recharge occurs". There have only been three significant recharge events in the last 100 years. It is simply irresponsible to grant a licence of this volume in these circumstances.

The NT EPA is an under resourced government entity and attempting to ensure compliance with environmental laws poses as another added difficulty. Ensuring accountability is another serious concern.

Resolution

I respectfully request that you ensure that the most rigorous level of environmental impact assessment (Tier 3) is applied.

Thank you for taking the time to consider this letter. I look forward to your response.

Yours sincerely,

Michaela Vaughan