

PRECAUTIONARY PRINCIPLE

'The Precautionary principle was misused by the DPE. The DPE has ignored the two condition precedents to the Principle, and misinterpreted the ramifications of what happens even if the Principle did apply.

The first condition precedent is that there **are “threats of serious or irreversible environmental damage.”** Reduction of water levels in [94] water bores, is not 'serious environmental damage'. The impacts on water bores are temporary (by comparison with other activities), reversible and occur at different times on different land across the area of influence. This is not '**irreversible environmental damage**'.

The second condition precedent is that there is “**considerable level of scientific uncertainty**” as to the “**nature and scope of the environmental damage**”.

For example, the water modelling has shown [94] bores at the 67th percentile, and [118] bores at the 90th percentile. That is 24 bores. In fact, the application of the IESC Uncertainty Guidelines (Dec 2018) goes a long way to removing the uncertainty around the water model, so there is “**no considerable level of scientific uncertainty**”.

Therefore the 2nd condition precedent is not satisfied.

Even if the Precautionary Principle applied, all that the Principle does is that Hume Coal is prevented from using '**lack of full scientific certainty**' being '**used as a reason for postponing measures to prevent environmental degradation.**' DPE has not proposed a mitigation measure that Hume Coal has tried to avoid implementing by reason of lack of full scientific certainty. Hume Coal has proposed a range of mitigation measures to reduce impacts and “prevent environmental degradation”.

Instead, the DPE has used the Precautionary Principle as a reason for refusing the project, but the Courts have specifically warned that the Principle be not used to refuse a project, because that will “**result in a paralysing bias in favour of the status quo and against taking precautions against risk. The precautionary principle so construed would ban “the very steps that it requires”**”.

This gives rise to a logical question. How can the Precautionary Principle be used as a reason to implement a mitigation measure to prevent environmental damage arising from a project, if there is no project?. That is clearly impossible. So the DPE's application of the Precautionary Principle is totally wrong under the law.'