



AgForce Queensland Industrial Union of Employers

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Mr Rob Hansen
Research Director
Agriculture and Environment Committee
Parliament House
BRISBANE QLD 4000

By Post & by Email: aec@parliament.qld.gov.au

Dear Mr Hansen

Thank you for the opportunity to make this submission to the Agriculture and Environment Committee of the Queensland Parliament on the Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 (the Bill).

AgForce is the peak rural group representing the majority of beef, sheep & wool and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around \$5 billion in gross farm-gate value of production in 2013/14 (forecast to be \$5.5 billion in 2015/16). AgForce exists to facilitate the long-term growth, viability, competitiveness and profitability of these industries. Our members provide high-quality food and fibre products to Australian and overseas consumers, manage more than half of the Queensland landscape and contribute significantly to the social fabric of rural and remote communities.

The Bill is intended to improve the management of the environmental impacts of groundwater removal by the resources sector and to protect the interests of farmers and other landholders whose groundwater is impacted by resource industry activities. It amends water and resources Acts to address the following policy objectives:

- strengthen the effectiveness of the environmental assessment of underground water extraction by resource projects
- allow the ongoing scrutiny of the environmental impacts of underground water extraction during the operational phase of resource projects through clearer links between the Environmental Protection Act 1994 (EP Act) and Water Act 2000 (Water Act)
- ensure that the administering authority for the EP Act is the decision-maker for specific applications relating to environmental authorities
- improve the make good framework in the Water Act
- ensure the impacts of mining projects that are advanced in their environmental and mining tenure approvals are appropriately assessed for their impact on the environment and underground water users, and that opportunities for public submissions and third party appeals are provided before underground water is taken in a regulated area for mine dewatering purposes

AgForce does not propose to comment in this submission on the provisions in the Bill relating to the *Queensland Heritage Act 1992*.

ADVANCING RURAL QUEENSLAND

Environmental sustainability is a key principle in ensuring that water supplies are reliably available for use by the current and future generations, including by agricultural users.

The key outcome sought by AgForce is firstly the avoidance of impacts through applying a precautionary, risk management approach to potentially irreversible, negative impacts by the resource sector on water resources. Secondly ensuring that any unavoidable, residual impacts are proactively mitigated including through an effective 'make good' strategy that is applied comprehensively (including pre-development baselines, impact reports establishing clear obligations, impact monitoring and acceptable 'make good' agreements).

Effectiveness of Assessment and Scrutiny of Underground Water Extraction

This Bill focusses the information provision and assessment of the environmental impacts of the exercise of underground water rights by significant new mining and petroleum projects into the environmental authority (EA) application or amendment process.

Bringing these elements into the EA process and having approvals under one government authority offers benefits in terms of streamlining and enabling a clearer presentation of the location, amount and movement of underground water, the predicted impacts on water quality and environmental values and consideration of the strategies proposed for avoiding, mitigating and managing these impacts. This will assist nearby landholders understand in a timely manner what is being proposed by a project and enable them to provide their views on those proposals.

The information requirements would also involve consideration of the cumulative impacts of projects on groundwater resources¹ and the Bill clarifies that the exercise of underground water rights can be conditioned through the relevant EA. This conditioning would also be able to be amended in response to improvements in groundwater knowledge and modelling associated with Underground Water Impact Reports (UWIR, required under Chapter 3 of the Water Act), which would be expanded to include past and predicted impacts on environmental values.

AgForce supports these proposals and notes that resource sector representatives also welcome the promise of better integration of groundwater assessments and regulatory streamlining.²

Improvements to the Make Good Framework

AgForce has sought further reforms by the State Government to the 'make good' framework within Chapter 3 of the *Water Act 2000* to deliver the needed confidence in the certainty, security and reliability of current agricultural water use. These were outlined in submissions to the Agriculture, Resources and Environment Committee concerning the Water Reform and Other Legislation Amendment Bill in 2014 and in more detail in submissions on the Water Legislation Amendment Bill 2015.

AgForce welcomes the inclusion of Clause 26 which amends s412 of the Water Act to remove an unreasonable level of certainty that was required around identifying causes of underground water impacts and to clarify that make good obligations arise where there is a likelihood that resource sector activities have caused, or materially contributed to, impairment of an underground water supply.

The inclusion into make good obligations of the impairment of a bore due to adverse effects resulting from the presence of free gas, including where there is no decline in water levels, is also welcomed.

This emerging issue is not adequately addressed under the current provisions of the Water Act. Stakeholder consultation and significant technical expertise will be required to effectively integrate this type of impact into the make good framework and the gGovernment is encouraged to include these elements into its implementation program if the Bill is passed.

¹ Explanatory notes to the Bill, page 5.

² <https://www.qrc.org.au/media-releases/queensland-proposes-extra-groundwater-regulations/>, accessed 23 September 2016.

According to Clause 28, the proposed cooling off period wherein a make good agreement can be terminated without penalty applies between the day the bore assessment is undertaken and 40 business days after the assessment is undertaken (s423(2a)). This period would apparently apply regardless of whether the Chief Executive has agreed to a later date under s423(b), or if the bore owner had received the notice of the outcome of the bore assessment from the tenure holder just 10 business days earlier. After this period the cooling off provisions would not apply. Such a timeframe would be too short and likely only apply in those cases where a bore owner has (or been) rushed into signing an agreement, probably without receiving adequate expert advice.

AgForce supports the tenure holder bearing the costs of the facilitator of an alternative dispute resolution process, which may have the indirect effect of incentivising holders to resolve outstanding issues before ADR is required. Bore owners should be able to have assistance or representation in dispute resolution processes without requiring the agreement of the tenure holder (eg, s429), who is likely to be represented by a trained negotiator familiar with the process.

In addition, make good negotiations should include a requirement that they be undertaken in good faith eg, to an acceptable code of conduct, to prevent heavy-handed commercial negotiation tactics from being employed by either party. This should be considered for inclusion in the Bill.

As previously requested, AgForce strongly supports including the reimbursement of the bore owner for hydrogeology costs incurred in negotiating and preparing a make good agreement (Clause 35). This should include covering an independent hydrogeologist to peer review assessments, identify any deficiencies and to assist in developing a bore owner's understanding of the potential impacts and what may be required to reliably make good an impaired water supply. Direct access to independent technical expertise and advice will add to landholder's confidence to make decisions and to negotiate agreements more effectively.

It is important that these hydrogeologists are appropriately qualified and experienced. Further, they must be provided with sufficient information by the tenure holder to do their job effectively. Under s416 of the Water Act, a bore owner is compelled to give to the tenure holder any information the holder reasonably requires to undertake a bore assessment. A similar provision should be included to require tenure holders to provide bore owners with any information the owner, informed by their advisors, reasonably requires to negotiate and prepare a satisfactory make good agreement.

Assessment of Advanced Mining Projects

Clause 36 of the Bill seeks to introduce associated water licenses for mining projects for which an EA has been applied for or been granted, or which are notified coordinated projects requiring an environmental impact statement and which would have been required to have a water license or permit to take or interfere with underground water as a result of carrying out of authorised activities. Public submission and appeals processes would apply to the grant of these licenses.

These are to address impacts on water resources that are an unavoidable consequence of accessing the mineral resource, as such the licenses are intended to be more applicable to impact management rather than sustainable planning. A license or permit may still be required for the non-associated water takes of a project under Chapter 2 of the Water Act.

The criteria for a decision on an application for an associated water license would include:

- existing water entitlements and authorities to take or interfere with water
- strategies for the management of impacts on underground water, including the impacts of dewatering
- information about the effects of taking or interfering with water on the physical integrity of surface and underground water conduits
- environmental assessments and effects on natural ecosystems.

AgForce supports a science-based and comprehensive assessment of any environmental and third party impacts associated with proposed resource projects and having clear strategies in place before impacts occur to ensure landholder's confidence in their water entitlements is secured, including refusing to allow unacceptable impacts.

It is important that the conditions applied to an associated water license in relation to assessing and managing third party impacts are no less rigorous than those requirements which apply through the make good framework. We support the capacity for the Chief Executive to declare a cumulative management area and require a UWIR or to call in these projects to undertake a baseline assessment of potentially-affected water bores. The proposed dealings allowable with associated water licenses appear appropriate.

Conclusion

AgForce is generally supportive of the proposals within the Bill and have made a number of suggestions of further improvements to what has been proposed.

If there are any questions relating to the contents of this submission please contact Dr Dale Miller via email [REDACTED]

Yours sincerely



Charles Burke
Chief Executive Officer