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Submission to the Agriculture & Environment Committee on the Environmental Protection (Underground Water Management) & Other Legislation Amendment Bill 2016.

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1. What is the Basin Sustainability Alliance :

The Basin Sustainability Alliance (BSA) was established in 2010, to represent the interests and concerns of landholders and rural communities who were being subjected to the unprecedented scale and pace of Coal Seam Gas development in South-West Queensland.

BSA's charter is to advocate for the sustainable use and management of land and water resources in the Condamine Basin for future generations – in particular highlighting the risk that the Coal Seam Gas development poses to the Great Artesian Basin and other sub-artesian groundwater aquifers in South West Queensland.

The BSA which has over 100 members, is comprised of farmers, graziers, business people and townspeople in south- western Queensland's Condamine Basin, as well as scientists who have a strong interest in supporting the BSA's "key focus".

The BSA is grateful for the opportunity to provide a Submission to the Agriculture & Environment Parliamentary Committee on the Environmental Protection (Underground water Management) & Other Legislation Amendment (EPOLA) Bill.

Our Submission addresses:

- General statements on issues of concern to the BSA relating to the complexity of legislation pertaining to the Resource Sector's access to water and issues in respect to the Explanatory Notes for the EPOLA Bill.
- Comments on the specific matters in the EPOLA Bill that the BSA is supportive of.
- Comments on specific matters in regard to the sustainable management of Queensland's groundwater resources which the BSA believes should be addressed in the EPOLA Bill. and
- An additional matter which the EPOLA Bill does not address.

2. Introduction:

The BSA, like a number of stakeholders, has found it extremely challenging to gain a complete understanding of how water access for the resources sector will be managed under all of the different pieces of legislation. In developing this Submission, the BSA have had to consider the complexity of the provisions of the Water Act 2000, the Mineral Resources Act 1989, the Water Reform and Other Legislative Amendments Act 2104(WROLA), the Petroleum & Gas (Production & Safety) Act 2004, the Water Legislation Amendment Bill 2015 and the Environmental Protection and Other Legislation Amendment Bill 2016. All of these pieces of legislation are extremely complex and due to their cross connectivity - there is a high potential for stakeholder and public misinterpretation and confusion of what is actually being proposed in the two (2) Bills before the House.

The Explanatory Notes to the EPOLA Bill 2016 outline that the objectives of the Bill are to:
• 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* and *Water Act 2000*
• improve the make good framework in the *Water Act 2000*
• ensure that the administering authority for the *Environmental Protection Act 1994* is the decision-maker for specific applications relating to environmental authorities
• 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 opportunities for public submissions and third party appeals are provided before underground water is taken in a regulated area for mine dewatering purposes
• update existing provisions in the *Queensland Heritage Act 1992* to provide for the appointment, by local government, of authorised persons to carry out compliance and enforcement activities for the local heritage provisions.

The Explanatory Notes also outline that the majority of the amendments to the *Environmental Protection Act 1994* and to Chapter 3 of the *Water Act 2000,* are in response to changes to the management of underground water made by the *Water Reform and Other Legislation Amendment Act 2014* and Water Legislation Amendment Bill 2016. The Explanatory Notes also state that these amendments also respond to experience in the administration and operation of the make good framework in Chapter 3 of the *Water Act 2000*. The BSA respectfully challenges this statement. A number of parties, including the BSA, have been making representations to successive Queensland Governments on the ineffective and inequitable "Make Good Framework" within Chapter 3 of the Water Act 2000. The BSA respectfully contends that at last these representations have been heard and it calls on Queensland's political system to show some honesty to and respect for the people who have raised legitimate concerns over the sustainable management of Queensland's natural resources. Political hubris and incorrect claims such as these, do little to generate public or stakeholder respect for our political institutions.

The Explanatory Notes further outline that prior to commencement of the W*ater Reform and Other Legislation Amendment Act 2014,* mining tenure holders were required to obtain a water licence under the water allocation, planning and use framework provided for in Chapter 2 of the *Water Act 2000,* before extracting "associated underground water" within a regulated groundwater management area. Associated water refers to underground water where the taking or interference is a necessary and unavoidable consequence of carrying out the authorised activities for the mining project, for example, removing underground water from a mine pit (dewatering) in order to create safe operating conditions. The BSA points out that this is indeed an incorrect and misleading statement. It is factually correct that prior to the passage of the WROLA Act 2014, mining tenure holders were required to secure a Water Act authorisation to take or interfere with underground water in a regulated groundwater management area – however there was no reference whatsoever to "associated underground water" for mining operations prior to the passage of the WROLA Act 2014. Through the WROLA Act 2014 amendments – Sections 334ZP (1) & 334ZP (3) provided a miner the statutory right to take or interfere with underground water and a reference to the take of "associated water", were introduced to the Mineral Resources Act

1989. The BSA contends that these factual errors should be duly noted by the Parliamentary A&E Committee and they should be rectified in the Committee's report to the Parliament.

The Explanatory Notes for the EPOLA Bill 2016 outline that one of the key amendments contained in the W*ater Reform and Other Legislation Amendment Act 2014* was the creation of a "limited statutory right" for mining activities to take associated underground water and, consequential removal of the need for a water entitlement for these activities, in those areas where the take of underground water is regulated under the *Water Act 2000*. While the BSA is philosophically opposed to the granting of "statutory underground water rights" to mining tenure holders, it does note that this is a factually correct statement.

The BSA is concerned about the number of mining projects, such as New Hope's Acland Mine Stage 3 and Adani's Carmichael Mine in the Galilee Basin, that have proceeded part way, or completely, through the Environmental Authority and mining tenure application process, that may not be subject to the proposed new assessment requirements of the EPOLA Bill 2016. The EPOLA Bill Explanatory Notes outline that transitional arrangements are to be included in the *Mineral Resources Act 1989* and the *Water Act 2000* which will provide for a separate associated water licencing process for these mining projects. Such mining projects will be required to seek an associated water licence that will involve an environmental impact test with outcomes comparable to that which will be required for new projects through amendments to the *Environmental Protection Act 1994.* The BSA is supportive of these transitional arrangements being inserted by this Bill. The BSA contends that it is important to maintain a consistent administrative approach to dealing with the take of water by miners.

The Explanatory Notes to the *Water Legislation Amendment Bill 2015* outline that the objectives of the amendments to the *Water Reform and Other Legislation Amendment Act 2014 (WROLA Act)* are to:

- align the *Water Reform and Other Legislation Amendment Act 2014* provisions with the Palaszczuk Government's policy and election commitments
- ensure provisions for water planning instruments appropriately transition existing instruments and processes into the new water planning framework and that the new framework can operate effectively.

The *WROLA Act 2014* was passed by the Queensland Parliament on 26 November 2014. It included a number of significant policy changes which were not supported by the Palaszczuk Government when it was in opposition. These changes included a new purpose of the *Water Act 2000* (Water Act) which does not include the principles of ecologically sustainable development and the introduction of a water development option for large-scale water infrastructure projects. These provisions have not commenced.

The Palaszczuk Government's election commitments relating to the *WROLA Act 2014* included:

- to act immediately to prevent the commencement of the Newman Government's water laws which will have a detrimental effect on the Great Barrier Reef catchment systems and allow for over allocation of Queensland's precious water resources; and

• to return ecologically sustainable development principles to the Water Act and remove water development options in their entirety.

The Palaszczuk Government has attempted to deliver on these election commitments. The detrimental components of the WROLA Act 2014 were deferred and the Water Legislation Amendment Bill *2015* was introduced. Amongst a number of changes - this Bill proposes to amend the *WROLA Act 2014,* by including ecologically sustainable development principles into the purpose of the Water Act.

While the BSA is supportive of this proposed legislative change, it respectfully contends that ecologically sustainable development involves more than just changing the scope or wording of legislation. Ecological sustainability also involves actions by government and others which deliver effective and long term management of the State's resources for future generations.

Currently in Queensland, Petroleum Tenure Holders are permitted to have unlimited access to and take of "associated and non-associated" underground water in undertaking their petroleum & gas operations. While the Water Legislation Amendment Bill 2015, did not propose to change this policy setting, the Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016, proposes to place some limits on water take by the Petroleum & Gas Industry within Regulated Groundwater Areas. The BSA contends that that the future sustainability of Queensland's underground water resources is at significant risk if the Petroleum & Gas industry's water take is not constrained. The BSA supports these provisions to place limits on the Petroleum & Gas Industry's take of associated and non-associated water.

The BSA contends that the Queensland Government cannot make claims that it is sustainably managing Queensland's groundwater resources unless it places constraints on the Mining and Petroleum & Gas sectors which prevent an unlimited take of underground water.

3. The BSA's comments on specific components of the EPOLA Bill:

In summary the EPOLA Bill:

- requires specific information to be included in certain site specific environmental authority applications, and amendment applications, in relation to the environmental impacts from the exercising of underground water rights by resource tenure holders.
- requires underground water impact reports to include an assessment of environmental impacts from the exercising of underground water rights and clarifying that an environmental authority may be amended in response to the content of an underground water impact report.

BSA's Comment: The BSA is supportive of the potential water impacts of a resource tenure holder's project being assessed concurrently and as an integral part of the Environmental

Authority assessment process. The current administrative process of the grant of an Environmental Authority for all matters apart from the water quantity matters (the take or interference with water), and the assessment of water quantity impacts through a separate Water Act process, is an administrative nonsense.

However, the BSA's support for this change in the resource impacts assessment process is contingent on: a) some amendments being made to the proposed new Section 126A in the Environmental Protection Act to better clarify the impact of a Mineral Development Licence, a Mining Lease or a Petroleum Lease on environmental values and groundwater quantity (these issues will be further expanded on below), and b) a person's objection rights not being diminished in any way by having all of the water impacts assessed under the *Environmental Protection Act 1994.* Under current *Water Act 2000* statutory processes – a person may lodge an appeal in the Land Court to the Chief Executives' decision to grant a miner a water licence to take or interfere with underground water and the Court's decision is binding on the State. However, under the *Environmental Protection Act 1994*, a person can lodge an appeal in the Land Court and the Court's determination is a non-binding recommendation to the State. The BSA does not support in any way this diminution of a person's appeal rights and contends that the necessary legislative amendments should be made to allow Land Court appeal decisions made under the *Environmental Protection Act 1994* to be binding on the State. This change would offer much better protection to those who make legitimate appeals to the Land Court.

- an amendment of Chapter 3 of the *Water Act 2000* to:
  - require resource companies to pay the landholder's reasonable costs in engaging a hydrogeologist for the purposes of negotiating a make good agreement.
  - require resource companies to bear the costs of facilitation of any Alternative Dispute Resolution (ADR) in the make good agreement negotiation process.
  - insert a cooling-off period for a bore owner to terminate a make good agreement without penalty.
  - ensure that impacts on water bores as a result of free gas from coal seam gas extraction are considered to be an impairment of a bore and are eligible for make good obligations. and
  - address issues in the make good agreement negotiation process relating to uncertainty in the cause of bore impairment.

BSA's Comment: The BSA is supportive of these amendments to the make good framework in Chapter 3 of the *Water Act 2000*. These amendments go a long way to rectifying the ineffective, inequitable and punitive aspects of the current "make good framework". The BSA and others have made numerous representations to successive Queensland Governments in respect to these matters and the BSA is pleased to see some progress being made to address stakeholders' legitimate concerns.

However, an ongoing concern to the BSA is the failure of the Queensland Government to recognise that information on a water bore's yield (secured from baseline testing & assessment of all existing bores in a tenement area) is a "key" piece of information that would underpin negotiations for a make good agreement. While the current water bore impairment framework includes reductions in water levels in a bore as trigger for make

good obligations - it does not include reductions in a water bore's sustainable yield from CSG impacts as a trigger for make good.

The BSA supports the following process for the baseline testing and assessment of water bores:

- *Baseline testing is to be undertaken by an Independent Expert and at new minimum standards requiring at least:*
  a) Standing Water Level (SWL) measurement (no exceptions). The Independent Expert (at the Resource Tenure Holder's cost) is to make any necessary modifications to bore equipment to facilitate SWL measurement (unless the Bore Owner unreasonably refuses to permit the modifications in which case such bore(s) will be excluded from the make good arrangement).

  b) For bores that are equipped with electric or engine powered pumps (including those equipped with a pump jack), continuous pumping (for X hours) and recovery tests to assess specific capacity (ie. a short-form version of sustainable yield test).

  (i) A full sustainable yield test is desirable and may be adopted as an alternative if the Resource Tenure Holder and the Bore Owner agree.
  (ii) Data loggers to be installed in all equipped bores at the time of baseline testing.

- *Full water quality tests to be undertaken in accordance with current industry standards.*

- *Gas intrusion test to be undertaken to measure the % for Lower Explosive Limit (LEL).*

- *A comprehensive assessment and documentation of the bore and its infrastructure including:*

(i) a detailed inventory of bore equipment and capacities, including water storage tanks, reticulation pipelines, troughs, etc;
(ii) the grazing area and the number of stock the bore is supporting;
(iii) for bores supplying irrigation water, as in (i) and (ii) above with any necessary changes;
(iv) measurement (or an estimate, if it cannot reasonably be measured) of pumping and recovery performance, including data logging results if available;
(v) records of any relevant pumping yield or pumping capacity or water quality data provided by the bore owner;
(vi) an assessment of reserve capacity, if any, over and above existing usage;

- *For bores that are unequipped as at a baseline assessment date, install a temporary pump of appropriate capacity to test for the specific sustainable pumping capacity. Also conduct SWL, water quality and % LEL tests.*

- *On receipt of the Independent Expert's Draft Baseline Assessment, either party may, within 15 business days, respond to the Independent Expert seeking clarification of any aspect of the assessment or request for any additional information.*

- *Upon the receipt of the Final Baseline Assessment, both parties will be taken to have accepted the assessment. The parties shall have 15 business days, to refer it to a dispute resolution process. In the event of a dispute, the Final Baseline Assessment (as accepted by the parties or as determined through a dispute resolution process) will, if required, be used as evidence of the baseline qualities of a bore.*

The BSA is also concerned at the terminology of a "hydrogeologist" being available to support a landholder's negotiations on make good arrangements. Some landholders in dealing with CSG Companies have approached Hydrogeologist Consultants for support and been advised that the Hydrogeologist would have a "conflict of interest" if they represented the landholder as well as the P&G tenure holder. The BSA suggests that an alternative source of hydrogeology support could be provided by water drillers. Water drillers are represented by a Water Drillers Association and their expertise is recognised by the Department of Natural Resources & Mines is providing data for the State's Groundwater database. There are plenty of water drillers who have considerable expertise in groundwater hydrology who don't have formal hydrogeology qualifications and who could provide valuable support to a landholder. The BSA would be concerned if people with this level of expertise were excluded from supporting landholders simply because they don't hold a formal qualification. The BSA requests that the Agriculture and Environment Committee consider making a recommendation: "that resource companies should be required to pay the landholder's reasonable costs for people with demonstrated experience or skills in hydrology or hydrogeology for the purposes in negotiating a make good agreement". This would allow landholders to engage either hydrogeologists or water drillers to support them in negotiating make good agreements.

- inserting a new provision which requires the administering authority to make decisions for specific applications relating to environmental authorities.
- inserting transitional arrangements in the *Mineral Resources Act 1989* and the *Water Act 2000* which will provide for a separate associated water licencing process for mining projects that are advanced in their environmental and mining tenure approvals.
- the introduction of "associated water" licensing process to the Water Act 2000 that will:

- provide a transparent process for decision-making.
- require public notification and allowing public submissions on underground water impacts associated with these projects.
- ensure that a decision-maker could refuse an application if the underground water take associated with the project is found to have unacceptable impacts on the environment or other water users.
- provide an opportunity for a merit-based appeal by third parties.

BSA's Comment: The BSA notes that "associated water licences" are only to apply to mining leases and mineral development permits within regulated groundwater areas. The BSA supports the removal of the *WROLA Act 2014's* "statutory underground water rights" for

miners to access unlimited volumes of underground water in regulated groundwater areas and replace these proposed rights with an "associated water" licensing process.

While the Explanatory Notes state that the new "associated water licence " framework "provides an opportunity for merit-based appeals by third parties", this is dependent on which statutory instrument the decision is made under. The EPOLA Bill 2016 outlines that a decision maker could grant in full, grant in part or refuse an application for an "associated water licence" (Section 1250 F (1)). The amendment includes "associated water licensing provisions" into the Water Act provisions of the *WROLA Act 2014* and hence decisions on associated water licences for mining tenures will be made under the *Water Act 2000*. This could have consequences for landholder's appeal rights. Normally – decisions made under the *Water Act 2000* can be appealed to the Land Court and the Court's decision is binding on the State. However, as the Environmental Authority is made under the *Environmental Protection Act 1994* and the decision of any appeal to the Land Court under that jurisdiction is handed down as a recommendation which is not enforceable on the State, it is unclear whether landholder's or third parties appeal rights are protected under the EPOLA Bill's provisions. There may be a diminution of landholder's or third parties' appeal rights through this legislation. As previously outlined – the BSA does not support any diminution of landholder's or third parties' appeal rights or the capacity of the Land Court to hand down decisions that are binding on the State. The BSA has already made a suggestion above as to how this matter can be remedied.

Specifically the EPOLA Bill 2016 proposes a number of changes to the *Environmental Protection Act 1994*, the *Water Act 2000* and the *Water Reform and Other Legislation Amendment Act 2014*.

Proposed Amendments to the *Environmental Protection Act 1994* include:

- insertion of a definition on "underground water rights". **BSA's Comment:** This is necessary to achieve some consistency with *the Mineral Resources Act 1989* & the *Water Act 2000*.

- inclusion of a new Section (Section 126A) which outlines information on the exercising of underground water rights which must be included in Environmental Authority applications for mining leases, mineral development permits and petroleum leases.

  The EPOLA Bill 2016 outlines environmental authority applications must state:

  a. details of dewatering and the areas where it will occur
  b. description of each potentially affected aquifer, analysis of groundwater movement and interconnections with other aquifers and surface water
  c. identification of areas where water levels are predicted to decline
  d. predicted volumes of water to be taken
  e. environmental values potentially affected
  f. impacts on groundwater quality
  g. strategies for avoiding, mitigating or managing the predicted impacts
  h. cumulative impacts of projects on groundwater resources of the region.

BSA's Comment: The inclusion of these provisions in the *Environmental Protection Act 1994* which will allow underground water impacts of resources projects (including Cumulative Impacts) to be assessed as part of the Environmental Assessment process, is a sensible approach and is supported. However, the BSA has a number of concerns in respect to this new Section. The BSA contends that the Environmental Assessment of the impacts of resources projects must be in accordance with the principles of Ecologically Sustainable Development.

There is limited capacity in Section 126A for dealing with the impacts of quantity of groundwater taken due to a Mineral Development Licence, a Mining Lease or a Petroleum Lease holder exercising their underground water right. The clear focus of Section 126A is on the impacts of take of water (through exercising underground water rights) on water quality and environmental values. The only reference to water quantity is on the reduction in water levels – not the impacts on the sustainable yield of the system. It is also interesting to note that that Section 126A (f) includes a reference to strategies on impacts of underground water rights on environmental values and water quality – and there are no impacts on water quantity included. An ongoing concern to the BSA is the failure of the Queensland Government to recognise that information on water bore yield secured from baseline testing of all existing bores in a tenement area, is also "key information" that should be included in a mining lease, a mineral development permit and a petroleum lease application for an Environmental Authority.

The BSA suggests that an alternative approach for dealing with these legislative deficiencies is to better define the definition of "environmental values". The current definition in the *Environmental Protection Act 1994* states that an Environmental Value is *"a) a quality or physical character of the environment that is conducive to ecological health or public amenity or safety".* It unclear as to whether this definition covers the adverse impacts of the take of water from the Resources Sector exercising their underground water rights on landholder's and Local Government water supply bores. The BSA contends that the clarification of the meaning of "public amenity" could greatly assist in the future assessment of the potential impacts of projects. The following definition is suggested: - "Public amenities are resources, conveniences, facilities or benefits continuously offered to the community for their use and or enjoyment, with or without charge".

The majority of the issues experienced by landholders having their bores impacted or impaired by the Resources Sector (in particular - the CSG Industry) relate to a reduction in the hydrostatic pressure of water bearing aquifers through water extraction associated by CSG operations. The expenditure in excess of $300mill in the rejuvenation of aquifer hydrostatic pressure is the primary focus of the Great Artesian Basin Sustainability Initiative (GABSI). The BSA contends that hydrostatic pressure warrants just as much attention in the Surat Basin CMA.

The BSA also contends if the definition of environmental values was expanded to include an assessment of the "reduction of hydrostatic pressure" impacts on ecological health (ecological assets that depend on groundwater) and public amenity (community and landholder's water supplies), then Section 126A might be able to effectively deal with the impacts of the Resources Sector exercising their underground water rights. The BSA would

prefer that the jurisdiction for the assessment of these impacts are undertaken by the Department of Environment & Heritage Protection and not the Department of Natural Resources & Mines – this potentially avoids "conflict of interest" matters where DNR&M (the Regulator of Mining and Petroleum tenures) are assessing water quantity impacts for an Industry that they are actively promoting.

The BSA requests the Agriculture and Environment Committee to recommend that: a) that the definition of Environmental Values in the Environmental Protection Act 1994 is expanded to include the impacts of water extraction on hydrostatic pressure, b) that new Section 126A is amended to give greater emphasis to water quantity impacts from the Resources Sector exercising its underground water rights, and c) that baseline sustainable yield tests of existing bores is also information that has to be included in a mining lease, mineral development permit or petroleum lease application for a future Environmental Authority.

- amendment of Section 215 of the EPA to allow Environmental Authority conditions to be amended if a underground water impact report identifies an impact of potential impact on groundwater**. BSA's Comment:** This amendment is supported. The capacity to amend the conditions of an Environmental Authority if new information becomes available which demonstrates an impact or potential impact on the sustainability of an area's groundwater resources is essential.

- a new Section 227AA which prescribes the information which must be included in an application to amend an Environmental Authority. This could include a change of tenure, a change to the volume of water taken or where there are likely to be changed impacts on environmental values. **BSA's Comment:** This amendment is supported.

- insertion of 2 new transitional provisions into Chapter 13 of the *Environmental Protection Act 1994* which include:
  - a new Section 748 which provides that the Environmental Authority applications which are in progress at the time of commencement of the EPOLA Act 2016 are to be decided under the old legislative provisions.
  - a new Section 749 which sets out the process for the approval of Environmental Authority applications made prior to the commencement of the Environmental Protection (Greentape Reduction) & Other Legislation Amendment Act 2012. **BSA's Comment:** The inclusion of these transitional arrangements is supported.

Proposed Amendments to the *Water Act 2000* include:

- changes to Section 412 for determining when a bore has impaired capacity. This change clarifies that Make Good obligations will apply when there is a likelihood that

the exercising of an "underground water right" is the cause or the material contributor to a bore's impairment. BSA's Comment: This amendment is supported.

- the changes to Section 412 also include free gas as a cause of a bore's impairment and is subject to make good obligations. **BSA's Comment:** This is a change that the BSA has been advocating for over an extended period. It is a significant contributor to water bore impairment and is supported.

- changes to Section 420 to provide for a Make Good Agreement to be terminated during a "cooling off period". **BSA's Comment:** This amendment is supported.

- a new Section 423A which allows a bore owner to terminate a Make Good Agreement without penalty during a "cooling off period". **BSA's Comment:** This amendment is supported.

- changes to section 426 that requires the facilitators costs of an Alternative Dispute Resolution (ADR) process to be met by the resource tenure holder. **BSA's Comment:** This amendment is supported.

Proposed Amendments to the *WROLA Act 2014* include:

- a new Section 11A to insert a new Chapter 15, Part 12 into the *Mineral Resources Act 1989*. This includes a new Section 839 which provides that underground water rights established under Section 334ZP of the *Mineral Resources Act 1994*, do not apply to miners - unless the holder of a mining lease or mineral development licence obtains an "associated water licence" under the *Water Act 2000*. The Section 839 restriction on miners will apply to mining projects that have proceeded partly or wholly through their Environmental Authority application process. This restriction will also apply to "Coordinated Projects" determined under the *State Development & Public Works Organisation Act 1971*. It is important to note that these requirements only apply to regulated groundwater management areas. **BSA's Comment:** As already outlined above – the BSA is supportive of this amendment. However the BSA also contends that Petroleum & Gas tenement holders should lose their "statutory underground water rights" and also be required to secure an "associated water licence" under the *Water Act 2000.* This change would bring the entire Resources sector onto a consistent framework for securing access to underground water.

- an amendment to Section 87 of the WROLA Act and a subsequent change to Section 376 of the Water Act to require underground water impact reports to include a description of past or predicted future impacts on environmental values as a result of a tenure holder exercising their underground water rights. **BSA's Comment:** This amendment is supported.

- an amendment of Section 116 of the WROLA Act and a subsequent change to Section 418 of the Water Act to expand the capacity of the Chief Executive of DNR&M to issue a direction to a resource tenure holder to undertake a bore assessment. This direction becomes a trigger for requiring the tenure holder to negotiate a Make Good Agreement with a bore owner. **BSA's Comment:** The BSA contend that a more effective process would be to require the resource tenure holder to undertake a bore assessment of all existing bores as a component of the required information in making an application for an Environmental Authority for a mining lease, a mineral development permit or a petroleum lease. The BSA has already raised this matter in this Submission.

- an amendment of Section 119 of the WROLA Act and a subsequent change to Section 423 of the Water Act to require a tenure holder to reimburse costs to the bore owner in negotiating/preparing a Make Good Agreement. This covers accounting, legal, valuation, ADR facilitation and hydrogeology support costs**. BSA's Comment:** While the BSA is supportive of the principle in this amendment it has made some suggested changes to these provisions in this Submission.

- an amendment to Section 201 of the WROLA Act to provide a process for the granting of "associated water licences" - this inserts new Divisions 1 & 2 into Chapter 9, Part 8 of the Water Act. It's important to note that an associated water licence does not attach to land - it can only be granted for a mining tenure. It is also important to note that a miner wishing to take underground water for a mining camp or a processing plant in a regulated groundwater management area "may" be required to secure a Chapter 2 Water Act authorisation - in other words a Water Licence for "non-associated" water use. **BSA's Comments:** The BSA has already outlined its support for this provision. The BSA also supports the provision of all Resource sector operators being required to secure a Water Act authorisation for "non-associated" water use.

- an amendment of the WROLA Act to include new Sections 1250 A through to 1250 U and changes to Sections 111 & 112 of the Water Act to specify how applications for "associated water licences" will be processed. **BSA's Comments:** As already outlined, the BSA supports the assessment and granting of "associated water licences" for mining tenures take or interference with underground water in a regulated groundwater area. The BSA has also contended that this process should also be extended to include the take or interference with underground water by petroleum tenure holders.

- inclusion of a new Section 1280B in the Water Act to include a transitional process for dealing with underground water impact reports which are submitted within 3 months of the commencement of the EPOLA Act. **BSA's Comments:** The BSA is supportive of this amendment.

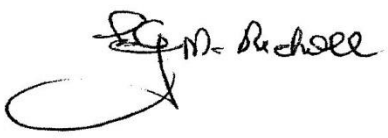
4.0 An additional matter which the EPOLA Bill does not address.

The *WROLA Act 2014* introduced a new water planning framework for Queensland. It replaced the old 2 plan framework of a Water Resource Plan (which detailed the strategic management of water resources in a catchment or river basin) and a Resource Operations Plans (which detailed the day to day requirements for managing a catchment's or a basin's water resources) with five (5) new and different instruments. According to the Minister for Natural Resources and Mines at the time of their introduction - these changes were ostensibly made to reduce "regulatory burden" and to also reduce "red tape". The BSA categorically rejects these claims and suggests they introduce a new element of "red tape" which will lead to the confusion of stakeholders.

The *WROLA Act 2014* framework provides for:
1) **a Water Plan** for defining the allocation and management of a basin's or catchment's water resources,
2) **a Water Management Protocol** for outlining operational matters such as water sharing rules,
3) **a Water Regulation** for dealing with the release of unallocated water,
4) **a Water Entitlement Notice** for the issuing of a water allocation, and
5) **an Operations Manual** for the management of regulated water resources released from a State or Council owned water storage.

These instruments provide all the details on what was concisely presented in the previous two (2) plan framework. Stakeholders who wish to investigate the specific details of water entitlements are now faced with a bureaucratic challenge in securing all of these new water planning instruments and then undertaking the necessary cross referencing to ascertain what they exactly contain and mean. The BSA contends that stakeholders will become totally confused and frustrated with this new water planning framework.

> The BSA also contends that the reinstatement of the old two (2) plan framework, which was recognised as one of the best water planning frameworks in Australia, will ensure that Queensland's water planning framework can operate effectively. The BSA calls on the Agriculture and Environment Committee to recommend their reinstatement be included in the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016* in its Report to the Parliament.



Signed: Lee McNicholl,
Chair – Basin Sustainability Alliance.
7th October, 2016.