

HERBERT RIVER IMPROVEMENT TRUST

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ABN 64 454 924 781

All Correspondence to be addressed to the Trust Secretary

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**AGRICULTURE, RESOURCES AND
ENVIRONMENT COMMITTEE**

Our Ref: BEL:KJL File No.

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Enquiries: **Mr Bruce Leach** ☎ (07) 4776 4605

3 April 2013

Agriculture, Resources and Environment Committee
Parliament House
BRISBANE QLD 4000

Dear Sir/Madam

LAND, WATER AND OTHER LEGISLATION AMENDMENT BILL 2013 SUBMISSION

Please find attached the Herbert River Improvement Trust's Submission in relation to the Land, Water and Other Legislation Amendment Bill 2013.

Please contact Trust Engineer, Bruce Leach, on ☎ 4776 4605, should you wish to discuss this matter or require any further information / clarification regarding the above.

Yours sincerely

L E Mash
TRUST SECRETARY



Per:
W H Pickering
TRUST CHAIRPERSON

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SUBJECT: **Submission to the Agriculture, Resources and Environment Committee in relation to the "Land, Water and Other Legislation Amendment Bill 2013"**

BACKGROUND:

This submission has been made by the Herbert River Improvement Trust [HRIT]. The Trust's area of interest is river systems within the Hinchinbrook Shire and particularly the Herbert River.

The Trust has long been aware of a growing problem in the lower Herbert in regard to the continuing construction of 'unauthorised' levees. In particular the Trust has observed that recorded flood levels in the Lower Herbert are becoming progressively higher in relation to upstream levels of the same magnitude. Additionally the heightened river levels then cause increasing impacts to those locations where flood waters are able to exit the river.

In order to quantify impacts and to work up a way forward, the Trust in 2012 undertook a study 'Herbert River Levee Modelling Study'. This study, which was completed prior to the release of the Queensland Flood Commission Inquiry Report, is generally consistent with the Commission's recommendations, however it does include detailed information specific to the Herbert area which the Trust considers necessary for successful control of levees.

Qld Flood Commission Inquiry Report

The Trust generally agrees with section 7.7 of the report. The Trust reached the conclusion that regulation in its area could be best achieved via the *Hinchinbrook Shire Planning Scheme*.

Land, Water and Other Legislation Amendment Bill 2013.

The Trust generally agrees with the proposed amendments to the *Water Act 2000*. The Trust notes that most of the actual detail would be included in the Regulation supporting the Act.

SPECIFIC POINTS NOTED BY THE TRUST:

The Trust raises the following matters which it has encountered in dealing with unauthorised levee growth in the Lower Herbert:-

1. **Levee Construction Can Be A Continuing Activity** - The situation in the Lower Herbert is that the majority of the river bank has a levee constructed on it in one form or another. The majority of these do not offer absolute protection, but rather protection up to say a five [5] year level for example. Over time though there is an upward growth in levee heights, particularly after major flooding events. It is difficult to determine whether fresh works that may be observed represent an increase in height or just general maintenance. Furthermore, it can be difficult to detect the presence of fresh works. To counter this factor, the Trust has considered the notion of setting threshold levee levels on river banks, which if exceeded would trigger compliance measures
2. **Existing Inequities** - The current situation is that those who have constructed levees enjoy benefits, via protection at the expense of those who may not have "taken matters in to their own hands". An outcome of the Trust's Study was that it would be undesirable to "lock these existing inequities" into a control measure. This is a particularly important point if it is desired to gain broad community support in implementing control measures. The Trust believes it would be irresponsible of itself to ask its Local Government to implement control measures that were clearly unpopular with its community.
3. **Interim Measures** - The Trust's own dealings indicated that publishing impending control measures would see a rush of unauthorised levee construction aimed at circumventing controls. Accordingly an interim control measure is seen as being necessary.

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4. **Setting The Extent Of Control Measures** - The Trust's workings indicated that this would be one of the most difficult parts of setting up an effective control regime. In the case of the Herbert Flood Plain where unauthorised levee construction is quite prevalent, regulation and compliance of levee construction has the potential to be a very demanding and resource hungry task and one that may be beyond the capacity of the Hinchinbrook Shire. Accordingly the Trust sees the way forward as being a system of regulatory measures that are formed on the basis of predicted adverse impacts. The Trust has a Flood Model for the Herbert where it would propose to determine likely impacts and then use that information to determine regulatory measures. It is envisaged that control would be targeted at areas likely to cause the most impacts such as those on the banks of the Herbert. This approach is as opposed to the notion of controlling all levee construction with the onus placed on individuals to demonstrate that their proposals would not result in adverse impacts being created.
5. **Compliance** - any levee control measures implemented need to be in step with the relevant authority's capacity to undertake the necessary regulatory and compliance measures. This capacity angle is seen as being the limiting factor in implementing a workable control system.
6. **Cumulative Impacts** - The Trust's own experience indicates that possible impacts of a particular proposal cannot be assessed in isolation. In the case of a distributor system such as the Lower Herbert, construction of riverbank levees has the impact of transferring the naturally occurring outflows downstream. Even small increases in bank/levee level when summed over considerable lengths can have significant impacts. Accordingly the Trust believes that in its own case, a regulatory system must be supported by flood modelling of likely impacts. The Trust has commenced this exercise in its Herbert River Levee Modelling Study.

REPORTING OFFICER:

A handwritten signature in black ink, appearing to read 'Bruce E Leach'.

Bruce E Leach

TRUST ENGINEER

DATE: 3 April 2013

On behalf of the Herbert River Improvement Trust