

SEQ Catchments

Submission on: Land, Water and Other Legislation Amendment Act 2013

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Introduction

SEQ Catchments congratulates the Minister for Natural Resources and Mines in taking steps to reduce red tape, streamline systems, simplify the natural resource management framework, and implement recommendations of the Queensland Floods Commission of Inquiry. This submission presents SEQ Catchments' position on the proposed changes particularly as they relate to South East Queensland's natural assets.

SEQ Catchments is a natural resource management organisation, which works with the community, the corporate sector and all levels of Government to ensure the long term sustainability of our natural assets in South East Queensland. The importance of these assets to the region's economy and social stability is well documented and increasingly understood¹.

South East Queensland's natural assets and their importance

Three million residents in South East Queensland depend on the region's natural assets to supply clean water, clean air, fruit, vegetables, meat, fish and other specialty foods, energy, landscape amenity, tourism, healthy flora and fauna, jobs and economic outcomes and abatement for development impacts. The regional population relies heavily on its catchments and the landscapes within South East Queensland to provide these services without diminution. Research also indicates that the people of South East Queensland do not want to see the environment and liveability of the region deteriorate any further².

The unprecedented level of development of all types in South East Queensland in the past 20 years has added to many years of, at times, inappropriate land management decisions and have impacted on the ability of the region to maintain its natural assets. These assets need to be in a condition which can continue to support and allow the production of clean air, water, food and landscape amenity while supporting tourism, the economy and the abatement services required for the region of the size and complexity of South East Queensland to be sustainable into the future.

South East Queensland's natural assets have been so modified, that to provide the base needs to support the services provided by the regions natural assets, the region needs to be viewed and managed differently to the rest of Queensland.

¹ Marsden Jacob and Associates (April 2010), Managing what matters: The cost of environmental decline in South East Queensland, Brisbane

² Marsden Jacob and Associates (April 2010), Managing what matters: The cost of environmental decline in South East Queensland, Brisbane

While the region has been modified to the stage where provision of natural asset services is increasingly threatened, SEQ Catchments understands and supports the need for further development of the region to encourage economic growth. SEQ Catchments believes that continued growth to support the economy while supporting and enhancing the natural assets of the region which underpin the economy is feasible and certainly desirable. This submission raises relevant points in order to support this need while Table 1 contains SEQ Catchments views on the various aspects of the Bill.

Catchment Management in South East Queensland

The majority of water supplied in South East Queensland comes from open catchments; that is, the majority of the area is open to a variety of urban, peri-urban, recreational and agricultural pursuits. The water authority owns buffer land around the majority of dams; however, this represents a small percentage of the total catchment area. Other major water supply areas in Australia such as Melbourne have the majority of the water supply catchments owned by Melbourne Water and are fenced, heavily vegetated and closed to public access.

Urban and peri-urban development with small acreage properties is an increasingly defining characteristic of many of the catchments. The propensity of intensively grazed smaller land holdings, weed infestation, domestic waste water treatment plants, increased fertilizer usage, farm dams, storm-water and limited landholder knowledge of these catchments all pose direct threats to water quality.

In broader agricultural areas of the watersheds such as those providing water into Wivenhoe Dam, sheet and rill erosion and unmanaged stock access to riparian areas are major threats. Demand for resources is also driving an expansion in extractive industries. In many areas, landholders are dealing with historical legacies from over clearing or extractive industry practices that were driven by government policies of the time. Not only are landholders losing irreplaceable land assets, the costs to water storage and treatment as well as built infrastructure has again been highlighted during the 2013 flood events in South East Queensland.

The benefits of catchment restoration are not just short term. They are avoided long-term costs. For example, the restoration of a riparian zone to reduce sediment movement and hence turbidity at a treatment plant intake will take several years to establish and longer to reach full effectiveness. Traditionally there has been an inbuilt degree of uncertainty in ecological restoration that is not as apparent in built infrastructure solutions. However recent research and works are addressing this uncertainty. Importantly though, a riparian zone has an extended asset life and long term benefits will continue to accrue long after conventional infrastructure is obsolete; that is, rivers and streams will endure long after pipes, concrete channels and hard infrastructure have reached their longest projected life span.

In addition, there are many other activities that can be undertaken to improve water quality in the catchments that have short term or immediate positive impacts. These include gully remediation, restoration of stream bank failure and changed agricultural production and management practices. Literature is full of peer reviewed articles that outline and demonstrate this approach from all over the world.

Catchment management can be funded using innovative policy and funding initiatives such as the wetland mitigation bank model³ which has been in operation in many parts of the United States of America since the early 1990s. These approaches have reached a stage of maturity where they now offer tried and tested models.

While many of these issues exist across Queensland, the concentration of people and small lot development in South East Queensland necessitates a specific and targeted approach for the region. The cumulative impacts of many and varied activities in the region have resulted in poor outcomes for Moreton Bay in the past⁴.

A way forward

The Bill proposes a number of sensible process and cost efficiencies for a number of Acts which have sustainable natural resource management as their aim. Most of the amendments are supported by SEQ Catchments; however there is a concern that the effect of removing a number of provisions from the *Water Act 2000* (particularly the removal of provisions for Declared Catchment Areas and Land and Water Management Plans) which will inhibit the ability for a catchment based approach to be taken to our natural assets in South east Queensland. In addition, SEQ Catchments is also concerned that further removal of other regulations and acts such as the *Soils Conservation Act 1986* may result in the removal of some important tools which, while currently underutilised, could allow multiple lot/landowner/sub-catchment management of our land resources.

When considered along with the recommendations of the Queensland Floods Commission of Inquiry, SEQ Catchments believes there needs be urgent consideration given to keeping at least one tool by which areas requiring special management to achieve the objective of sustainable natural resource management in the region. For example, while the original intent of a Declared Catchment Area (DCA) was to provide a tool to ensure appropriate water quality was received in the water impoundments, the provisions contained in s258 and s259 provide a simple head of power which would enable catchment management approaches to be taken for certain high risk catchments such as the Lockyer catchment.

³ see www.epa.gov/owow/wetlands/facts/fact16.html

⁴ Healthy Waterways (Sept 2012), Report card for the waterways and catchments of South East Queensland, Brisbane (see www.healthywaterways.org)

The provisions surrounding land and water management planning could be adjusted to facilitate catchment management approaches, as could the provisions relating to soil conservation projects in the *Soil Conservation Act 1986*. Importantly, the DCA provisions do not need altering as there would only be a need to enact suitable and agreed regulation to address the planning and water supply concerns and associated matters identified in the Commission of Inquiry, as well as catchment management in general. As a community owned organisation, SEQ Catchments would stress the need to utilise the DCA provisions in an inclusive and involving process with affected landholders and local governments.

Further, in South East Queensland, management of the DCA provisions could be delegated by the Minister to appropriately qualified River Improvement Trusts. At present, there are only two Trusts in the region; however, with the proposed amendments to trust board governance contained in the Bill, there is an opportunity to re-think how the trusts could be organised in South East Queensland to deliver catchment management outcomes in high risk catchments such as the Lockyer. Again, contemporary approaches being utilised by some trusts in Queensland, plus the head of power offered by the DCA provisions, along with the objects of the *River Improvement Trusts Act 1940* provide the Government with a powerful suite of tools to meet the competing demands on our catchments and the natural assets they contain.

This mechanism could also facilitate needed assessment and resultant solutions for existing flood plain issues such as new or existing levees which may cause harm to people and assets in a catchment. Perhaps even nutrient trading schemes could be set up around the DCAs as well as market based incentives schemes such as wetlands mitigation banking.

Incentivising farming systems in DCAs (or similarly agreed management units) to reduce sediment export, revegetation of hillslopes and programs to repair degraded rivers and streams would greatly add to the economic and social viability of many rural communities. Nutrient offsetting schemes and the like could play an important role in this regard.

It is also SEQ Catchments view that the Queensland Competition Authority be presented with a cohesive analysis of least cost abatement opportunities using natural assets/infrastructure in South East Queensland. If natural infrastructure such as rivers and catchments were considered by the Authority as an asset, then they could be treated under accounting systems in a similar way to traditional built infrastructure with a corresponding capital and operational expenditure treatment. Water providers are already interested in these approaches to least cost abatement in order to meet regulatory requirements.

The water supply catchments of South East Queensland are assets of immense value and support many of Queensland's most productive rural industries. Urban areas are dependent on them for food and a cost effective water supply. Investment to assist improved farming

systems and manage landscape functionality to reduce soil loss will benefit both rural and urban communities if done cooperatively.

SEQ Catchments is also concerned about the emergency provisions which allow automatic clearing of up to 0.5 ha of vegetation under the Sustainable Planning Regulation 2009. At the state level, this provision makes sense during emergent situations; however, if every landholder adjoining a watercourse, lake or spring in South East Queensland availed themselves of this provision, the region would have little if any riparian vegetation because of the density of small lots. The above mechanisms using DCA's could provide the basis to ensure this disastrous eventuality did not happen in South East Queensland. Also a River Trust under the Act has provisions for catchment plans which could be used to assess and manage riparian vegetation on a cohesive, timely and practical way.

Amended Acts	Commentary
<i>Aboriginal Land Act 1991</i>	The proposed amendments simplify a number of processes which will gain efficiencies while still maintaining indigenous peoples' interests and are supported.
<i>Acquisition of Land Act 1967</i>	The act has stood the test of time; however, the provisions streamlining the taking of land by agreement will enhance its effectiveness, as will improved delegation provisions and are supported.
<i>Cape York Peninsula Heritage Act 2007, City of Brisbane Act 2010, Foreign Ownership of Land Register Act 1988, Land Title Act 1994, Petroleum Act 1923, Petroleum and Gas (Production and Safety) Act 2004, South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, Sustainable Planning Act 2009 and Land Valuation Act 2010</i>	Each of the amendments proposed either facilitates or results in efficiencies and are supported.
<i>Land Act 1994</i>	<p>The improvements to the application processes for leases, licenses and permits are welcome and bring the application process more into line with contemporary practice.</p> <p>There are a number of sensible amendments to streamline the administration of reserves. As many of these reserves contain important natural assets, these efficiency gains are welcomed and it will be important that a consultative approach to compliance with the intentions of the Act on these reserves and trustee leases is maintained.</p> <p>SEQ Catchments also notes the changes to a number of the provisions relating to the Rural Leasehold Land Strategy and supports the efficiencies these will gain for rural people.</p>
<i>River Improvement Trust Act 1940</i>	The amendments relating to Trust Board administration and

	<p>functioning are welcome and sensible.</p> <p>SEQ Catchments have made recommendations in the body of the submission relating to the overall functioning of the legislation applying to catchment management. This Act may provide a mechanism to improve catchment management.</p>
<i>Vegetation Management Act 1999</i>	<p>Given the Act is the subject of major amendment through the Government's State Development, Infrastructure and Industry Parliamentary Committee, SEQ Catchments will focus its commentary for this Act on that submission. The amendment relating to addressing anomalies created by the vegetation management watercourse map as evidenced in the Pacific View Farms matter is sensible.</p>
<i>Water Act 2000</i>	<p>Levees: The new provisions relating to levees are particularly welcome. SEQ Catchment experience is that levees and their functioning in catchments and flood plains in South East Queensland have created many unfortunate unintended consequences.</p> <p>In the body of this submission, SEQ Catchments suggests these provisions be expanded to existing levees where it can be demonstrated that they result in negative impacts on, or direct threats to infrastructure, public safety and health, and water quality. The submission advocates this expansion on a management unit type approach.</p> <p>Water licenses: SEQ Catchments is fortunate to have a number of staff who have been involved in regulating water licenses for up to 30 years. We are not aware of a single instance where a water license was not renewed. The provisions to make water licenses "perpetual" are sensible when taken together with the water resource allocation provisions in the Act. The provisions relating to associate water are also supported given the legislative overlaps with the <i>Environmental Protection Act 1994</i>. Also, the provisions which extend the stock and domestic authorisations to other minor take activities is sensible, provided the potential for cumulative impacts on a catchment are taken into account.</p> <p>Water Resource Plans: Provision to extend the life of a plan in certain circumstances is supported given the ability to make submissions on any extension.</p> <p>Riverine Protection Permit (vegetation): While the provisions are supported given the confusion it clears up; SEQ Catchments is very concerned about "as of right" emergency provisions for the clearing of watercourse vegetation up to 0.5 ha. As South East Queensland is predominantly small landholdings in nature, if all landholders took up their right to clear their 0.5 ha, there would be little if any watercourse vegetation left in the region which would have disastrous consequences. The body of the submission contains</p>

	<p>recommendations to deal with this issue.</p> <p>Land and Water Management Plans: The reasons for removing this mechanism from the Act are understood. While the intent of the plans is still desirable, the process is seen as too onerous by landholders and the only partially successful implementation we are aware of occurred in the Wide Bay Burnett region. The body of the submission contains recommendations about this matter.</p> <p>Removing Declared Catchment Areas: Those SEQ Catchments staff who have been involved in government regulation attest to the lack of effect of this provision since the introduction of the Environmental Protection (Water) Policy; however, the removal of this and other mechanisms which allow special management units to be created is addressed in the body of the submission. SEQ Catchments recommends an alternative approach of effectively using this provision rather than removing it.</p> <p>Other amendments: Again, the amendments contribute to sensible efficiencies and are supported.</p>
<i>Water Supply (Safety and Reliability) Act 2008</i>	As the amendments proposed add flexibility to allowing best practice water supply, SEQ Catchments support them. SEQ Catchments has made additional recommendations in the body of the submission dealing with opportunities to amend the Act to deliver contemporary best practice.

Table 1

Key Recommendations

SEQ Catchments congratulates the Government on the reforms and efficiencies gained as a result of the Land, Water and Other Legislation Amendment Bill 2013. In addition, it recommends the Committee give serious consideration to the following recommendations:

- A major program of advanced catchment management be implemented in South East Queensland in high risk catchments (risk to be determined from science, local knowledge and a matrix approach which considers the potential for impacts on infrastructure, safety and health issues, and water quality issues)
- River Improvement Trusts be seriously considered as a mechanism for better coordination of catchment management in high risk catchments. In line with this and to ensure there is no doubt, the objects of the Act should be amended to read “to provide for *the resilience, protection and improvement of the bed and banks of rivers and associated flood plains and catchments*, the repair and prevention of damage to the bed and banks of rivers, the prevention of flooding and the prevention or mitigation of inundation of certain land by flood waters from rivers; to provide for the constitution of trusts to discharge the foregoing functions; to make financial provision with respect to the discharge of trusts’ functions and for related purposes”. SEQ Catchments also questions that part of the object of the Act relating to the “prevention of flooding” as this is not practical in variable climate such as that experienced in South East Queensland. We suggest it be changed to “mitigation of flooding”

- The *Water Act 2000* Declared Catchment Area (s258 and s259) provisions be retained to form the basis for a management unit to deliver catchment management outcomes for high risk catchments
- Consideration be given to delegation of the powers in s258 and s259 to suitably qualified positions in a River Improvement Trust
- An important focus of a Trust charged with overseeing a DCA should be on on-ground works and outcomes
- The revised Trust governance be used as a catalyst to establish an annual program of works which should be delivered by a specialist community based catchment organisation.
- A participatory approach involving engagement of landholders and local communities be a cornerstone principle to deliver catchment management outcomes
- The existing body of science should be used to inform the catchment risk assessments and the program of works and investment
- Investment in the program should be funded using provisions available under the *River Improvement Trust Act 1940* and consider incentive programs such as wetland mitigation banking, nutrient trading/offsetting, landholder incentives and the like
- A high level standing committee including Ministers with a regulatory interest and affected Local Governments should be established for South East Queensland to oversee the process and outcomes.
- The Queensland Competition Authority be asked by their shareholding Ministers to deal with the question “Under what circumstances in South East Queensland do environmental solutions to meeting regulatory requirements provide least cost abatement for water service providers?”