WAMBO CATTLE COMPANY

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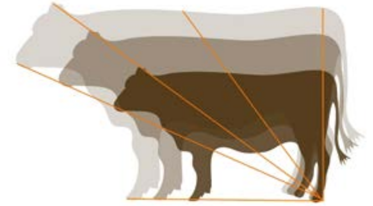

Wambo Cattle Company Pty Limited
ABN: 92 058 718 326

7th October 2014

The Research Director
Agriculture, Resources and Environment Committee
Parliament House
BRISBANE QLD 4000

By email only: AREC@parliament.qld.gov.au

Dear Sir/Madam

Re; Submission Concerning the Water Reform and Other Legislation Bill 2014

I am making this submission as a director of Wambo Cattle Company Pty.Ltd., which operates a substantial cattle feedlot with associated grazing lands at Braemar, in the Western Downs Regional Council area.

The feedlot currently uses up to 700,000 litres each day of water for cattle drinking purposes at 13,000 head capacity and would consume twice that amount if it was available – the feedlot having been approved to carry 24,000 head.

Because of moratoria on the granting of surface and groundwater licences under the current *Water Act 2000*, we have struggled since 1990 to be able to access the area's groundwater supplies because our most accessible groundwater supplies have been granted to two gas companies, Arrow Energy and QGC and these companies are most reluctant to enter into make good negotiations as required under the Chapter 3 of the *Water Act 2000* and to supply either treated or untreated CSG water for beneficial use.

In addition, our land is subject to a coal mining lease that is controlled by Carbon Energy and one day I would expect that the extraction of syngas from below our lands may further constrain our rights to groundwater if Chapter 3 of the *Water Act 2000* will now form the basis for negotiating make good obligations with resource companies.

While we support the issuing of water allocations to better quality aquifers under water trading policies, this is really in its infancy as far as allocations from the Great Artesian Basin is concerned. There is a perceived risk that there may be probity issues embedded in the *Bill* which need further consideration before the provisions of Chapter 3 are not only consolidated into the *P & G Act 2004* but are incorporated into an amendment of the *Water Act 2000* for the benefit of the resources industry without proper public consultation and clarifying the community's fair rights to appeal.

If the trading of water allocations in its current non-transparent form is consolidated by premature passage of the *Bill*, then the public's confidence in the Department of Natural Resources and Mines will collapse further than it did when the Court ruled against the Department's actions in a northern water resource area and this decision was strongly supported in a detailed report by the Queensland Ombudsman.

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My concerns about probity issues being avoided in the wording of the *Bill* have been heightened by the following policy objectives taken from the *Explanatory Notes:*

- *Validate decisions made regarding later work programs and later development plans under the Petroleum and Gas (Production and Safety) Act 2004 and Petroleum Act 1923 and decisions made regarding later development plans under the Mineral Resources Act 1989.*

- *Provide greater flexibility to petroleum lease holders in relation to applying for an extension to the production commencement day.*

This government has failed to implement the "water measurable criteria" in assessing the Coal Seam Gas Management Plans of most gas companies – particularly Arrow and QGC – allowing them to continue under the lax conditions of the *Coal Seam Gas Water Management Policy 2010* of the former government and not under the fair conditions introduced by the current government as part of its election platform and confirmed in its *2012 Coal Seam Gas Management Policy.*

To retrospectively give these "rights" to tenure holders without public consultation shows that the current government has little interest in supporting the community values which were incorporated in their 2012 *Policy.*

It is of further concern that the Productivity Commission, in its report to government on the petroleum gas industry stated, with regard to CSG water management, to the effect that these matters should be left to the individual gas producers to resolve without further consultation with government.

With the above in mind, I therefore find concerning that the section dealing with "Consistency with fundamental legislative principles' in the *Explanatory Notes*, shows that many clauses in the Bill breach fundamental principles outlined in Section 4 of the *Legislative Standards Act 1992*, e.g.

- *Clause 132 of the Bill potentially breaches the principle that legislation should not affect rights and liberties, or impose obligations retrospectively.*

- Disbelief in the argument put forward with regard to Clauses 116, 123, and 128 applying retrospectivity only to the resource industries.

- Disbelief in the argument put forward with regard to Clause 129 for the same reason as above.

There is then concern about the lack of consultation listed on p.12 of the *Explanatory Notes.*

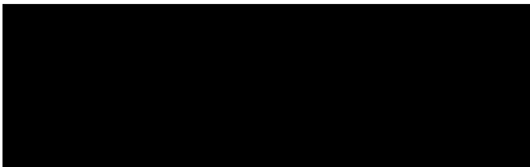
Given the short period of time made available to concerned stakeholders to examine the *Bill* and *Explanatory Notes* and to request consultation with government agencies over quite important issues, it is requested that the *Bill* be withheld until stakeholders have been given the chance to have their concerns voiced.

More importantly, given the current level of conflict between landholders and resource industries concerning land and water rights, it is suggested that passage of the *Bill* should be further delayed until Chapter 3 of the *Water Act 2000* has been revised into a form such that the government and stakeholders will be satisfied that policies such as the 2012 *Coal Seam Gas Water Management Policy* will be implemented to the overall community good.

I would be pleased to provide detailed information concerning the above if requested.

Thank you for the opportunity to make a submission.

Yours sincerely



M.F. Winders BE, MIEAust, RPEQ

PRESENTATION TO PARLIAMENTARY COMMITTEE

WATER REFORM AND OTHER LEGISLATION AMENDMENT BILL

by M.F. WINDERS

on behalf of WAMBO CATTLE COMPANY PTY.LTD.

1. I welcome this opportunity to appear before the Committee to speak to my company's earlier submission and amendment, as there are other parts of the *Water Reform and Other Legislation Amendment Bill* that are also relevant to our position as groundwater-dependent landholders affected by petroleum gas and mining legislation.

2. Wambo Cattle Company's first submission examined the following stated objective of the Bill:

   Establish a consistent framework for underground water rights for the resources sector and for the management of impacts on underground water due to resources activities through changes to:

   - *The Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety Act) 2004.*

   - *Expand the application of Chapter 3 of the Water Act 2000 to the mineral resources sector.*

3. That submission was principally concerned about amending Part 4 of the *Bill*, i.e. the proposed amendment of the *Mineral Resources Act 1989* regarding granting water rights for mineral development licences and mining leases, as described in the *Explanatory Notes* (p.7, para.2) because it appeared to consolidate the unworkable relationship between the *Petroleum and Gas Act* and Chapter 3 of the *Water Act.*

4. Our submission did not delve into Part 5 of the *Bill*, believing that it would have delivered the "consistent framework" objective of the *Bill*. Instead, our submission referred to potential probity issues that may have been embedded in the *Bill*.

5. Nor did we expand upon our assessment of the apparently unworkable aspects of applying the "make good" provisions of Chapter 3 of the *Water Act* to the *P & G Act.*

6. We recognize the amount of effort that has been put into drafting Part 8 of the *Bill,* i.e. especially Chapter 2 of the *Act*, *Amendment of the Water Act 2000*, to improve dealing in water entitlements and allocations.

7. It is also appreciated that the granting of unlimited volumes of underground water taken by the gas industry under 185.2.3 of the *P & G Act* has not been given to the mining industry under the *WROLA Bill*.

8. There remain concerns, however, about the wording of that part of the *Bill* (Sections 69-140,pp. 244 – 279) which deal with the contentious Chapter 3 of the *Water Act*, specifically the "making good" of groundwater assets "impaired" by resource activities.

9. Specifically, it would appear that "impairment" still refers to a lowering of the standing water level of a bore rather than to the loss of an entitlement or allocation of an approved volume of groundwater – the real groundwater asset, not the bore.

10. Given the difficulties landholders like my company are experiencing in dealing with gas companies and the Queensland Government's oversight over the beneficial use of associated water and the making good of its extraction, I would like to take this opportunity to make further comments upon Part 5 of the *Bill* which deal with the additional underground water rights it seeks to assign to the petroleum gas industry (Sections 13-18, pp.51-54).

11. These appear to be the assignment of rights to take un-associated water in addition to an unlimited take of associated water.

12. It would appear that there are now rights for tenure holders to take underground water for use in the carrying out of another authorized activity for that tenure rather than use their unlimited take from their wells, e.g. for fraccing – a significant use of water that can significantly deplete local water supplies, given the number of wells that are likely to be fracced.

13. In addition, it would appear that the rewording of Section 185 (Underground water rights) and deletion of Sections 185(6) and (7) has enabled the introduction of a new Section 186: *Underground water rights* – extending the above-increased underground water rights to petroleum gas tenure holders within the Surat Cumulative Management Area for a further 5 years beyond the passage of this *Bill*.

14. This has not been explained in the *Explanatory Notes*.

15. It is suggested that this may be an example of the retrospectivity clauses embedded in the *Bill* which concerns landholders and indicates that probity issues should be examined by this Committee before finalizing its report to Parliament.

16. If this *Bill* is approved without further consultation, landholders reliant upon underground water supplies in the Surat Cumulative Management Area gain nothing at all from the proposed *Bill*.

17. Chapter 3 of the *Water Act 2000* continues to be the legislation governing the making good and beneficial use of associated water.

18. Our major concern is that Chapter 3's manner of dealing with making good is relevant only to the definition of "impairment" of existing and new bores based upon a lowering of bore water levels, as determined by "underground water impact reports" and "bore assessments" prepared on behalf of tenure holders.

19. This assessment process is quite inconsistent with the manner in which water has been and will be allocated in the future – with all allocations being based on the volume of water available and not upon the impact on other users of allocating such a volume.– the assessed lowering of a bore's standing water level being an artifact only of the volume of water so-allocated.

20. The above considerations reinforce our concern about the apparent non-implementation of this government's *Coal Seam Gas Water Management Policy, 2012* through enabling legislation or regulation.

21. This *Policy* prioritises and lists criteria for the beneficial use of associated water, as well as stating the principle that water should be beneficially used and that provisions for relevant beneficial uses should be included in the CSG Water Management Plans of tenure holders.

22. The *Environmental Protection Legislation 2008* (Section 24AA) requires that environmental authorities for CSG activities "comply with the prioritization hierarchy for managing and using CSG water stated in the coal seam gas water management policy".

23. However, our earlier submission pointed out that the Queensland Government recently allowed such compliance with its own *Policy* to be dismissed as an apparent "reform" suggested by the Queensland Competition Authority in its January 2014 *Coal Seam Gas Review*, viz:

    > *CSG operators be provided with flexibility in how to satisfy the regulatory requirements relating to the use of CSG water, pending the outcomes of the review of beneficial use approval assessment outcomes.*

24. These beneficial use approval assessment outcomes have now been adopted as General Beneficial Use Approvals for the uses listed in the *Policy.*

25. The following extract from the *CSG Water Management Policy 2012* (pp. iv,v) suggests that such beneficial uses should be incorporated as means of making good the unlimited loss of groundwater allowed to be taken by the gas industry:

    > *This policy deals primarily with the management and use of CSG water under the EP Act and does not vary the requirements of the Water Act such as a CSG operator's 'make good' obligations. The policy does, however, encourage CSG operators to consider the feasibility of using CSG water to meet these obligations as part of developing their CSG water management strategies and plans.*

26. The *Policy*, then states (p.2)

    > *In managing CSG water as a resource, it is essential that CSG operators account for and plan for the management and use of the total volumes of CSG water expected for the life of the project.*

27. This reference to “volumes of CSG water” reflects the purpose of Section 10(2)(c)(vi) of Chapter 2 of the *Water Act 2000*, stating that the “efficient use of water”

    - *promotes water recycling, including, for example, water reuse within a particular enterprise to gain the maximum benefit from available supply; and*

    - *takes into consideration the volume and quality of water leaving a particular application or destination to ensure that it is appropriate for the next application or destination…*

28. It is suggested then that Chapter 3 of the *Water Act 2000* should be further amended to replace “impairment of bores” with “decreasing the volumes of groundwater available for beneficial use” or wording to that effect.

29. Protection of water’s environmental values is also a fundamental part of the “water trigger” of the Australian Government’s *Environmental Protection and Biodiversity Conservation Act* – a matter now required to be considered by state governments, when assessing CSG and large coal mining projects likely to impact on the hydrology of a water resource or the water quality of that resource as defined in the Act’s *Guidelines.*

30. These *Guidelines* consider that a significant impact on the hydrological characteristics of a water resource may occur where, as a result of the extractive activity, there are likely to be caused changes and variations in the water quantity received by the resource. This should further reinforce the need for Chapter 3 to be revised to reflect the loss of quantities of groundwater to water users due to the impacts of resource industries.

31. Accounting for all of the above matters should be included in the *Bill* if it is to provide real water reform for groundwater management, in those parts of Queensland where rainfall is either so insufficient or so unreliable for surface water resources to provide for the needs of rural industries, as well as for new and expanding resource industries.

32. The Committee is respectfully requested to consider the matters raised in this submission before reporting to Parliament.

M.F. Winders
27 October 2014.

WAMBO CATTLE COMPANY

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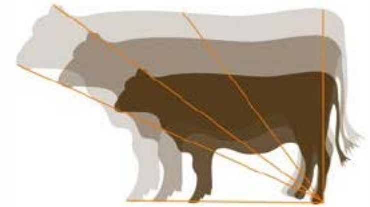

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10th October 2014

The Research Director
Agriculture, Resources and Environment Committee
Parliament House
BRISBANE QLD 4000

By email only: AREC@parliament.qld.gov.au

Dear Sir/Madam

Re: Correction to Submission Concerning the Water Reform and other Legislation Bill 2014

I would like to make the following correction to my submission of 7 October 2014 wherein, in para 4 of page 5, I referred to the Productivity Commission rather than the Queensland Competition Authority and did not provide a reference to the issue I raised regarding leaving coal seam gas water management to the individual gas companies without further consultation with government.

The above comment was based upon my reading of p.10 of the Final Report of the *Coal Seam Gas Review* undertaken by the Queensland Competition Authority, dated January 2014.

This part of Table 1 of the Summary of Recommendations of the review lists "Reforms implemented post Draft Report", including:

Section 6.3: Draft Recommendation 12:

> *CSG operators be provided with flexibility in how to satisfy the regulatory requirements relating to the use of CSG water, pending the outcomes of the review of beneficial use approval assessment outcomes.*

Government policy is to allow the beneficial use of associated water as a means of making good the impact of associated water extraction. However this potentially significant benefit to landholders and rural communities is not addressed in Chapter 3 of the *Water Act 2000*, which focusses on "impairment of bores" rather than the loss of volumes of water accessible by existing or new bores.

It is suggested that this should be considered as a further amendment to the *Water Act*.

Yours sincerely

M.F. Winders

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