

9 October 2014

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

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

Dear Sir/Madam

Re: Water Reform and Other Legislation Amendment Bill 2014

We act for many clients who are affected by the provisions of the *Water Act 2000 (Water Act)*, *Mineral and Resources Act 1989 (MRA)* and *Petroleum and Gas (Production and Safety) Act 2004 (P&G Act)*.

The changes proposed to these Acts pursuant to the *Water Reform and Other Legislation Amendment Bill 2014 (Bill)* have the potential impact directly upon our clients and the ways in which water is managed in their communities by primary producers and resource companies alike.

Changes to chapter 2 of the Water Act

We are pleased to see the Bill incorporates an overarching purpose for the Water Act, and that this purpose includes many of the provisions currently contained in section 10.

However, we are of the view that the emphasis on the sustainable management and use of water that currently features in section 10 should also be included in the new proposed section 2(1)(a).

In this respect, we also note the reference to 'ecologically sustainable development' and its definition have been omitted from chapter 2 under the Bill.

As the primary legislative instrument for regulation of the use and development of water, we feel it is very important for the Water Act to retain a strong focus on sustainability and ecologically sustainable development. This would ensure that the Water Act maintains clear ties with ecologically sustainable development through application of the principles of the precautionary approach, intergenerational equity and biological diversity.

It is our submission that the reference to ecologically sustainable development in the purpose of the Water Act should be reinstated, together with its corresponding meaning.

We also query the omission of a number of key aspects in the definition of 'efficient use' of water under the current section 10(3). In particular, we are concerned by the omission of water recycling through water re-use to gain the maximum benefit from available supply.

Again, we are of the view that this change reduces the Water Act's emphasis on sustainability, and accordingly we submit that the recycling of water should be included in the definition of 'efficient use of water' in the new section 2 of the Water Act.

Facilitation of large scale water projects

We note changes to the Water Act now provide proponents of proposed major water infrastructure projects with the ability to secure a 'water development option' under the Water Act prior to the issue of other approvals for the project.

We also note the explanatory notes to the Bill state this new regime is designed to facilitate the responsible development of large-scale developments which have a water infrastructure component.

We can see a potential for conflict between the grant of water development options and current water allocations and uses under the Water Act if the chief executive provides water development options with precedence over other existing uses.

In this regard, we note new section 85(c), which requires the chief executive when deciding whether to grant a water development option to take into account "other commitments or future demands for the water, including existing water development options".

While this subsection goes some way toward protecting the future demands for water for existing users, we submit that this section should go further by recognizing the value of water uses that

are already in existence (particularly existing agricultural uses), and planning for their future demand.

Whilst we acknowledge the overall effect of subsection 85(f), we also submit that section 85 should expressly require the chief executive to have regard to current or potential future water shortages and existing water use patterns in the relevant area to be affected by the water development option.

Changes to the MRA

We note the changes to underground water rights under the MRA are intended to provide mineral rights holders with the same rights as are currently afforded under the P&G Act.

We appreciate the Bill's stated policy objectives to establish a consistent framework for underground water rights for the resources sector. However, we are concerned that the approach adopted under the Bill is to deregulate the taking of associated water under the MRA, rather than looking at ways to enhance the management and regulation of the taking of associated water under the P&G Act.

In addition, we are of the view that the new proposed section 334ZP(4) which deals with the use of associated water after extraction should be amended so that this provision provides some onus on mineral rights holders to ensure that water is used beneficially and efficiently. Whilst the MRA is not governed by the same overall purposes as the Water Act, where the MRA is dealing with subject matter ordinarily regulated by the Water Act, we consider it is important for those provisions reflect the objectives of the Water Act.

We submit changes to the Bill to reflect these matters would be a more responsible and sustainable approach to take in the circumstances, particularly given the continued expansion of natural resource extraction in Queensland and the associated pressures this has, and will continue to have, on Queensland's water reserves.

Changes to the P&G Act

We support the proposed amendments to the P&G Act that seek to limit the rights of petroleum tenure holders to take associated water.

We note the amendments will require petroleum tenure holders to obtain a water entitlement pursuant to chapter 2 of the Water Act before they can extract non-associated water in a regulated area.

It is our submission that such water licences are only granted if to do so is consistent with the purposes of the Water Act that is, that the water licence is consistent with responsible and sustainable management and, as discussed above, ecologically sustainable development.

Summary

In summary, we acknowledge the need to ensure that the management and use of water in Queensland is achieved in a responsible and productive manner that advances the best economic, social and environmental outcomes.

However, it is our strong view the changes under the Bill should incorporate a much clearer focus on sustainability and ecologically sustainable development, as set out this submission.

This would align the legislation (particularly the Water Act) with the expectations of community, business and international observers, and ensure the future development of Queensland's valuable water resources is undertaken in a balanced and sustainable manner.

Kind regards,

Ferrier & Co.



Camille Wood

Lawyer