



Gecko - Gold Coast and Hinterland Environment Council Assn Inc.

ABN 90 689 258 843

Gecko House, 139 Duringan Street, Currumbin, Qld 4223.
Telephone 07 5534 1412
office@gecko.org.au www.gecko.org.au

9 October 2014

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

Per email to: AREC@parliament.qld.gov.au

Dear Sir

Water Reform and Other Legislation Amendment Bill 2014

Gecko- Gold Coast and Hinterland Environment Council Assoc Inc. (Gecko) thanks the Committee for the opportunity to comment on the proposed Bill. Our comments relate specifically to the proposed changes to the Water Act 2000. Although the revision purports to deliver “An Act to provide for the responsible and productive management of water and the management of impacts on underground water, and for other purposes,” Gecko is greatly concerned that the amendments proposed in the Water Bill do not adequately protect this valuable natural asset upon which our ecosystems and communities depend.

Purpose of the Bill

Gecko finds it deeply regrettable that the new purpose omits some crucial aspects of the existing Act, namely the clause “(ii) the economic development of Queensland in accordance with the principles of ecologically sustainable development”. Whereas the Water Act 2000 details these principles to guide responsible water use, the Bill has abandoned this approach and simply promotes an exploitive use of our water resources. As with the draft Planning and Development Act 2014 to replace the Sustainable Planning Act 2009, ESD principles are explicitly removed and replaced with guidelines that reduce environmental protection. We urge the Committee to retain the purposes as currently stated.

Queensland remains a signatory to the Intergovernmental Agreement on the Environment 1st May 1992 which committed Queensland Governments to the pursuit of sustainability as outlined in the following paragraphs:-

*RECOGNISE that the concept of ecologically sustainable development including proper resource accounting provides potential for the **integration of environmental and economic considerations in decision making and for balancing the interests of current and future generations;***
RECOGNISE that it is vital to develop and continue land use programs and co-operative arrangements to achieve sustainable land use and to conserve and improve Australia's biota, and soil and water resources which are basic to the maintenance of essential ecological processes and the production of food, fibre and shelter;

Context of the Bill

Australia is a dry country that is becoming progressively drier. The Bureau of Meteorology discusses rainfall deficiencies¹ across Australia, including longer-term multi-year deficiencies (greater than two

years) which stretch back to the termination of the 2011–12 La Niña and are evident across scattered parts of eastern Australia and parts of the far southwest. These currently cover more than 40% of Victoria, 30% of Queensland in its long-term forecasts.

The chance of a return to El Niño conditions² remains at least 50%, which is double the average likelihood of an event occurring. El Niño is often associated with below-average rainfall over large parts of southern and eastern inland Australia and above-average daytime temperatures over southern Australia. Similar impacts can occur while an event is developing.

With IPCC modelling of the impacts of rising greenhouse gas emissions clearly indicating an increase in extended dry spells, dwindling water supplies need to be better protected. There is a need for more and more stringent regulation, rather than the relaxations, self-regulation and reduced oversight permitted in this Bill.

When tabling the Bill, Minister Cripps made no mention of climate change, drought and dwindling supplies nor or there any such references in the Explanatory notes. Clause 185 states:

Chief executive may amend resource operations licence or distribution operations licence in an emergency

(1) The chief executive may amend a resource operations licence or distribution operations licence if the chief executive is satisfied this is necessary—

- (a) to deal with a shortage of water for essential services or town water supply; or
- (b) because there is a risk to public safety.

The onset of an El Nino with severe drought conditions should constitute an emergency yet there does not seem to be a provision in the making of a water plan for effective responses to such a situation, nor how the needs of different water users will be assessed and limited. While Clause 66 regulates water usage during times of shortage, the ability of the Department to understand the nature of water shortages in order to respond promptly and effectively is impaired as there is no longer guidance from a Department of Climate Change to inform such decision making.

Cumulative impacts

While the bill provides a framework to manage cumulative impacts, there appears to be an inherent assumption that impacts can continue to mount up and can always be managed. There is no indication of how a ‘cut-off’ point may be triggered or how a scale of increasing damage is to be assessed. There is no expressed primacy of the needs of the agricultural sector and for environmental flows and the ability of the public to make comment on water allocation and use has been curtailed.

Water Plans

Gecko notes with concern that early consultation with the public is not a requirement in the initial preparation of a water plan and it is left to the discretion of the Minister whether public consultation on the proposal is required (clause 44). Gecko is concerned that public views, expertise and information about on-ground factors should be included in early planning stages.

Further comment

There are additional Clauses that are of great concern to Gecko members and we strongly support the views of the Environmental Defenders Office Queensland which we include below.

Alpha Coal Example

By way of example of why we need to keep existing regulation of water use, not just rely on assessments by large corporate interests: in April of this year the Land Court of Queensland found that it did not have confidence in the off-lease groundwater assessment undertaken by a multibillion dollar mining company.

That assessment was part of their environmental impact statement made to the Coordinator-General for the Alpha Coal³ project proposed to be one of the biggest coal mines in the world.

We are opposed to the many proposed changes within the Bill which weaken the management, monitoring and enforcement of water use in our State. In particular, we draw your attention to the following four key issues for your consideration:

1. Deregulation of water use does not lead to sustainable water management

Clauses 53; 63; 68 -new section 93(g) and 94(c); 243; and 248.

The deregulation of water use around smaller watercourses is a high risk proposal which requires solid scientifically based research to understand possible short and long term impacts. So we do not agree with the proposal to remove assessment and licence obligations, including public notification procedures, for 'low risk' water use activities. Where is the thorough research, understanding and management to ensure it does not lead to cumulative impacts on water resources?

2. Weakened assessment of impacts by large scale water users is unacceptable

Clauses 68-new section 51(2)(c), 52 and new Ch 2, Part 2, Division 7.

The implementation of a 'development option' for large scale water users, which will guarantee the largest water users to water for their project prior to completion of a full environmental assessment, is irresponsible and does not ensure adequate and well informed management of our water resources. What about other users and the long term impacts?

It is also unacceptable that the assessment material prepared for a proponent's project, by consultants paid by the project proponent, may be used to direct amendments to regional water plans. Regional water planning is complex, involving many competing interests. Amendments to regional water planning should only be undertaken in a transparent way with broad consultation with independent informed scientists, other users and informed groups involved in water management in the area.

3. Regulation of water use by mineral resource *and* petroleum and gas industry projects should be strengthened, not weakened

Clauses 11- new Chapter 12A, Part 1; 14 and 15.

We do not support the granting and retention of statutory rights to associated water⁴ for mining or petroleum activities. The highest standards should be adopted for these high impact projects. This proposal creates uncertainty, and bias towards these industries, at the cost of our agricultural industries and ecosystems. Further, as detailed above, the environmental assessments undertaken for mining leases and environmental authorities have been found to be inadequate in their assessment of water impacts.

However, we do support the removal of a right to all non-associated water for the petroleum and gas industry and the move to provide statutory obligations for mineral proponents to enter into make good agreements with bore owners in order to protect bore owner rights, but these negotiations must be regulated to account for the resource imbalances between landholders and resource companies.

4. Water allocations must be supported by thorough research

Clauses 68-new section 70; and 202-'water allocation security objective'.

The amendments propose a streamlined process for the conversion of water licences to secure and trade water allocations. This is likely to result in an increase in the usage of existing water rights. This proposal must therefore be supported with substantial research to thoroughly understand the potential impacts on

ecosystems and existing water entitlement holders. We do not support the move to encourage tradable water rights without adequate understanding of the impacts to water use and Queensland's environment.

We urge the Committee to address the concerns outlined above. There have not been adequate studies done to properly understand our water resources, particularly groundwater resources, to support these amendments. As the Alpha Coal project example demonstrated, even highly resourced proponents may not be currently undertaking reliable, well-informed studies of water impacts of large scale projects. Adequate regulation, including monitoring and enforcement, is integral to ensure our water supplies remain sustainable for today's users and future generations.

We thank the Committee for their consideration of these comments.

Yours sincerely

A solid black rectangular box redacting the signature of Rose Adams.

Rose Adams
Secretary

¹ Bureau of meteorology- Rainfall deficiencies <http://www.bom.gov.au/climate/drought/>

² Climate Change and Variability <http://www.bom.gov.au/climate/change/?ref=fr>

³ Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4) [2014] QLC 12, at 406

⁴ Clause 11, new section 334ZP defines 'associated water' for the purpose of the amendments as underground water in the area of the licence or lease taken or interfered with during the course of, or results from, the carrying out of an authorized activity for the licence or lease.