



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

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Date: 9th October 2014

Submission to the Water Reform and Other Legislation Amendment Bill 2014

Dear Sir or Madam,

WWF-Australia welcomes the opportunity to provide the following comments and recommendations regarding the abovementioned Bill, which is currently before the Agriculture, Resources and Environment Committee.

WWF believes there are some overarching issues that the Committee should consider:

- The amendments roll back robust reforms that have occurred with significant stakeholder engagement over the last two decades to achieve sustainable water management arrangements in Queensland.
- Many aspects of the proposed amendments are contrary to the National Water Initiative and therefore contrary to sound economic and natural resource objectives.
- The amendments will significantly increase unregulated and unplanned water allocation and extraction which will likely impact on the water reliability of existing water users and increase the risks for potential water related investments.
- The reforms are contrary to Queensland Government commitments to sustainable development.
- There is not a strong case made for the need for the reform, insufficient investigation of the consequences of the reforms, and apparently little support for them across a broad range of stakeholders.
- WWF recommends that much wider consultation and investigation occur before these reforms are progressed.

1. Water Act amendments

1.1 New purpose of the Water Act

Key issues regarding the proposed amendment to the current purpose of the Water Act include:

- Removing sustainable development principles from the Water Act contravenes the Queensland Government's Great Barrier Reef (GBR) Coastal Zone Program, which articulates the Government's commitment to UNESCO that future development

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activities (including water related development) in the GBR Coastal Zone will be ecologically sustainable in order to protect the World Heritage Area.

- Without the Precautionary Principle and other ESD safeguards in place, there is a heightened risk of adverse impacts occurring to the states water resources and environmental values as a result of the proposed new purpose of the Water Act's stronger emphasis on economic outcomes.
- Due to the heightened risk of adverse economic, social and environmental impacts occurring, the proposed new purpose of the Act will not build confidence for investors regarding the long-term availability and security of the State's water resource entitlements.
- The proposed new purpose of the Act does not contain any reference to the National Water Initiative (NWI), to which Queensland is a signatory.

Recommendations:

1. To meet national/international commitments and ensure the states water resource are sustainably managed, Ecological Sustainable Development should be retained as the primary purpose of the *Water Act 2000*.
2. Aboriginal and Torres Strait Islander peoples economic development rights over the State's water resources should be included in the purpose of the Act.
3. Queensland's obligations under the National Water Initiative should be included in the purpose of the act

1.2 Watercourse identification mapping

According to the Bill's explanatory notes, the purpose of the proposed amendments under clauses 62, 63 and 64 of the Bill is to redefine what is a watercourse under the Act. Key issues regarding the proposal to redefine what is a watercourse include:

- Redefining what is a watercourse will result in many watercourses that are currently recognised under the Act being deregulated.
- As they will be deregulated, the take of water for consumptive purpose from deregulated watercourses will no longer be licenced.
- As the take of water from deregulate watercourses will effectively be unregulated, there is a significant risk of adverse impacts occurring to localised and downstream environmental values from the potentially unsustainable take of water from deregulated watercourses.
- In addition to potential adverse environmental impacts, unregulated take of water from deregulated watercourses could cause significant adverse economic impacts to downstream water users, which could occur from reduced water availability caused by potentially unsustainable take of water from deregulated watercourses.
- Although DNRM states in the Regulatory Impact Statement (RIS) that watercourses will be rigorously assessed prior to being deregulated, neither the RIS, the Bill or its explanatory notes provide information about the criteria DNRM will use to

assess and set extraction thresholds in watercourses that are deregulated.

- There is a significant risk that riparian regrowth vegetation in the Burdekin, Wet Tropics and Mackay Whitsunday catchments that is currently protected under s20 AB of the *Vegetation Management Act 1999* will be cleared if watercourses in these catchments are deregulated. Clearing riparian regrowth vegetation in these and other GBR catchments is likely to cause significant land degradation, which will substantially increase the amount of sediment that is transported to the Great Barrier Reef - thereby accelerating its decline.

Recommendations:

1. DNRM should:

- Make the criteria it will utilise to identify which watercourses will be deregulated publically available
- Assess all potential adverse impacts to water entitlement holders
- Assess all potential adverse impacts to localised and downstream environmental values (including groundwater dependent ecosystems)

2. Watercourse in Great Barrier Reef catchments should not be deregulated

1.3 Converting water licences to water allocations

Key issues associated with the proposal to accelerate conversion of water licences to tradable water allocations include:

- Due to the acknowledged lack of robust hydrological models and long-term water resource data, claims by the Department that converting water licences to tradable water allocations will not compromise water entitlement holders existing security or cause environmental impacts cannot be verified or substantiated.
- The Bill does not contain any provisions to ensure that appropriate monitoring, reporting, compliance or management measures will be introduced to ensure that any issues or impacts arising from converting water licences to tradable water allocations will be properly managed

Recommendations:

Water licences should not be converted to tradable water allocations until DNRM has:

- Acquired sufficient data and knowledge to provide certainty that adverse impacts to water entitlement holders and environmental values will not occur.
- Implemented adequate monitoring, reporting and compliance frameworks.

1.4 Water development option

Key issues regarding the proposed water development option provision include:

- Along with providing security for existing water entitlement holders and establishing environmental flow objectives, Water Resource Plans (WRPs) also determine the volume of unallocated water that can be used to support new economic opportunities without adversely affecting existing water entitlement holders or environmental values. Unallocated water is reserved under a WRP for

different purposes, which includes state significant projects, general use and to support Traditional Owners' economic aspirations. Unless applications for water development options only apply to unallocated water already identified, there is significant risk that existing water entitlement holders and environmental values will be adversely affected if water development options apply to water that is outside of established regional water balances.

- The Bill outlines the matters the chief executive 'must have regard to' in deciding whether to declare a project to be a major water infrastructure project, which does not include the requirement for the proponent to provide the chief executive with a fully costed business case for the proposed project which is necessary to clearly demonstrate the economic feasibility of the proposed project.
- While the chief executive 'must have regard to' the potential for significant impacts on flows when deciding whether to declare a project to be a major water infrastructure project, the chief executive is not required to consider other environmental impacts potentially caused by major water infrastructure projects such as water quality degradation, habitat loss and disrupting aquatic species migration. This would likely be contrary to the requirements of the Commonwealth's Environment Protection and Biodiversity Conservation Act.
- Under the proposed section 84 of the Water Act on page 128 of the Bill, the chief executive may grant a water development option without application under a process prescribed by regulation. As the process enabling the chief executive to grant a water development option without an application is embedded in a regulation, it can be altered without public notification and due process. To ensure transparency and that any conflicts of interest are avoided, the process to declare a water development option without application should be included in the Act.
- Under the proposed section 89 of the Water Act on page 131 of the Bill, the existing holder of a water development option may transfer the option to another person. Enabling water development options to be transferred has the potential to artificially inflate the water market through investor speculation, which will increase business uncertainty for existing water entitlement holders, constrain other types of development and impede achieving outcomes under Reef Plan and other similar programs

Recommendations:

- Water development options should only apply to unallocated water that has been identified under Water Resource Plans (WRP). The chief executive must reject applications for a water development options for water outside of established regional water balances and in areas of the State where there is no WRP.
- Proponents applying for a water development option must provide the chief executive with a fully costed business case for the proposed project.
- The chief executive must consider all potential environmental impacts when deciding whether to declare a project a major water infrastructure project.
- The process used by the chief executive to grant a water development option without an application must be included in the Act.
- To avoid speculation and market distortion, water development options must not be transferable.

1.5 Amending s379 of the Act (Contents of spring impact management strategy)

Clause 89 of the Bill will amend s379 of the Act by deleting all references to 'potentially affected spring', which will be replaced with 'identified spring'. Key issues include:

- Due to insufficient scientific understanding, the extent of possible impacts to springs potentially caused by CSG activities is largely unknown.
- In addition to the lack of knowledge about extent of possible impacts caused by CSG activities, very little is known about the hydrology, ecology and other factors associated with springs.
- Due to the lack of scientific understanding, it is critical that a precautionary approach is taken when assessing and managing impacts to springs - which is why CSG operators are required to assess possible impacts to all 'potentially affected springs' in the Springs Impact Management Strategies they must prepare under s379 of the Act.
- Removing the requirement for CSG operators to assess and manage possible impacts to all potentially affected springs as currently required under the Act will significantly increase the risk of adverse and potentially irreversible impacts occurring to springs – particularly in areas of the state where there are multiple CSG operations such as the Surat Basin.
- Along with affecting threatened fauna and flora species, degradation of springs can cause significant economic impacts by reducing base-flows in river systems that farmers rely on for agricultural production.

Recommendation:

Due to the potential environmental and economic impacts, the proposal to amend s379 of the Act contained in the Bill should be rejected.

1.6 Amending the Water Act's existing water planning and allocation framework

Key issues regarding the proposed amendments to the way the state's water resources are currently planned and allocated include:

- Recently, the water resource planning and allocation section of the Water Act was revised, which substantially streamlined, simplified and increased the flexibility of processes associated with the development and implementation of Water Resource Plans and Resource Operation Plans.
- As they have already been substantially streamlined, there is a considerable risk that any further streamlining will overly simplify the way Queensland's water resources are planned and allocated – which may significantly reduce the Water Act's ability to address the multitude of complex and competing economic, social and environmental factors associated with managing the State's water resources
- Unintended outcomes resulting from the Water Act's potential inability to properly manage the State's water resources include:
 - Over allocation of surface and ground water resources, which will cause increased environmental impacts as well as increased uncertainty for water entitlement holders.
 - Inability to respond to emerging impacts, such as climate change.

- Contravening the Government's commitments under numerous agreements such as the National Water Initiative, Reef Plan, National Strategy for Ecological Sustainable Development and in the GBR Coastal Zone Program Report.

Recommendation

The proposed amendments contained in the Bill to replace the existing water resource planning and allocation framework contained in the Water Act should be rejected.

1.7 Amending existing riverine protection provisions

Key issues regarding the proposed amendments to the existing riverine protection provisions include:

- When considering whether to grant a River Protection Permit, the chief executive is not required to assess environmental impacts such as habitat destruction, impeding aquatic species migration or increased land degradation that may occur from placing fill and excavating in watercourses.
- Applicants for Riverine Protection Permits are not required to prepare an environmental management plan for placing fill or excavating in a watercourse, which is necessary to ensure that potential adverse environmental impacts are avoided, reduced and mitigated.
- Although the chief executive is able to cancel a River Protection Permit under s222 (page 228 of the Bill) if adverse impacts of the permitted activity on the watercourse is greater than expected, the Bill does not contain any provisions enabling the chief executive to instruct the applicant to remediate the greater than expected impacts.

Recommendation:

- When deciding to grant a River Protection Permit, the chief executive must be required to consider all adverse environmental impacts potentially caused by placing fill or excavating in a watercourse.
- River Protection Permit applicants must be required to prepare and implement an environmental management plan for the intended works.
- Under the Act, the chief executive must have the power to instruct River Protection Permit holders to remediate any greater than expected adverse environmental impacts that have occurred.

2. Proposed amendments to the River Improvement Trust (RIT) Act 1940

While WWF-Australia supports the proposed amendments to the *River Improvement Trusts Act 1940*, we believe the RIT Acts ability and effectiveness to address river and catchment management issues will be increased by adopting the following recommendations:

- Objectives and outcomes of catchment plans prepared by RITs should incorporate, align and accord with other relevant policies and programs, such as:
 - Environmental Values and Water Quality Objectives established for Queensland waters under the *Environmental Protection (Water) Policy 2009*
 - regional Natural Resource Management Plans
 - Reef Plan agricultural pollution reduction and ecosystem protection targets
 - Management actions articulated in Water Quality Improvement Plans

- Management actions within Healthy Waters Management Plans, which are prepared under the *Environmental Protection (Water) Policy 2009*
- To ensure available resources are effectively utilized, RITs should prepare strategic investment plans that identify and prioritise catchment improvement and management actions required to achieve designated outcomes
- To be inclusive and transparent, each RIT should establish community reference panels (CRPs), which provide advice regarding the development and implementation of catchment improvement and management plans
- In GBR catchments, strategic investment plans should guide the expenditure of development offsets, Reef Trust and other sources of funds.

Recommendation:

The above recommendations should be included in the River Improvement Trust Act.

3. Proposed amendments to the Mineral Resources Act 1989

Key issues regarding the proposed amendments to the Mineral Resources Act to grant holders of mineral development licences the right to take underground water include:

- Removing the ability for the public to make a submission on and apply for a review of the granting of a Water Licence to mining proponents is a significant reduction of existing public rights.
- While mine operators will be required to ‘make good’ any impacts to bores on adjacent properties, the Bill does not contain provisions requiring mine operators to ‘make good’ any impacts to springs or groundwater dependent ecosystems as CSG operators are required to do.
- Making good impacts to affected bores is an agreement between the bore owner and the responsible mine operator that may result in the bore owner receiving financial compensation, which will not remediate the impact to the affected aquifer.
- Due to the close proximity of mines to each other in the Fitzroy and Galilee Basins, there is a significant risk of cumulative and irreversible impacts occurring to groundwater resources as a result of granting miners the right to extract unlimited volumes of groundwater.
- Under current arrangements, DNRM must consider the public interest, properly made submissions, existing water entitlements, effects on the environment and a range of other matters when granting a water licence to a mine operator. This amendment will result in a mines water use being assessed under the Environmental Impact Statement (EIS) that is prepared by the proponent, which will not be a consistent assessment drawing on independent expertise. This concern is highlighted in the case of *Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4)* [2014] QLC 12, in which the Land Court stated that it had a ‘lack of confidence’ in the water modelling undertaken by the proponent.

Recommendations

- Existing public objection and appeal rights must be maintained.
- Make good requirements must also apply to impacts that have occurred to springs and groundwater dependent ecosystems.
- Potential cumulative impacts caused by adjoining mining operations must be assessed and avoided.
- Environmental Impact Statements for mining projects must be prepared and reviewed by a fully independent entity.

4. Failure to consult community and non-industry organisations

When announcing the review of the *Water Act 2000*, Minister Cripps publically stated that “it is important Queensland has an efficient and responsive structure to deliver planning outcomes through robust science and strong community engagement”.

Consultation regarding the Bill has occurred with industry bodies such as Agforce, Queensland Farmers Federation, Queensland Resources Council, Australian Petroleum Producers & Exploration Association, SunWater and SEQ Water. However, despite the Minister acknowledging the importance of strong community engagement there has been no consultation with environment, indigenous or other community organisations that have a long history of proactively engaging in water resource policy development and planning processes across the state. There is clearly not widespread community knowledge or support for the reforms and may lead to future public concerns.

5. Conclusion

Given the likely adverse economic, social and environmental impacts (which are largely not investigated and described) as well as the lack of support for the proposed reforms across a broad range of stakeholders, the Bill should be deferred. WWF-Australia would appreciate the opportunity to appear before the committee to provide further information regarding our concern about the Bill.

Yours sincerely

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