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9 October 2014

The Research Director
Agriculture, Resources and Environment Committee
Parliament House
Brisbane, QLD 4000
By email only**:** AREC@parliament.qld.gov.au

Dear Research Director, Chair and Committee Members,

EDO Qld and EDO NQ's joint submission on the Water Reform and Other Legislation Amendment Bill 2014

Thank you for this opportunity to provide comment on the proposed changes to the water regulatory framework in Queensland under the *Water Act 2000* (Qld) (**Water Act**) and other legislation, as proposed in the *Water Reform and Other Legislation Amendment Bill 2014* (**Water Bill**).

From massive water extraction for major mines to small-scale extraction from local creeks, this Bill is proposing less not more regulation of water use. This is not acceptable as it will lead inevitably to ecological degradation. It is contrary to fair, evidence based regional water planning and assessments that take account of the interests of water users from all industries, community needs and ecological protection. These proposed amendments are putting short-sighted big business before our environment, landholders and smaller business.

Who we are

The Environmental Defenders Office (Qld) (**EDO Qld**) and the Environmental Defenders Office (Northern Qld) (**EDO NQ**) are non-profit, non-government community legal centres with expertise in environmental law. We assist both urban and rural clients as well as those in coastal areas to understand their legal rights to protect the environment. Both EDOs have nearly 40 years combined of experience working with Local, State and Federal governments and our communities to improve planning and environmental laws in the public interest.

We **enclose** and rely on the concerns raised in the EDO Qld submission to the Department of Natural Resources and Mines on 29 July 2014 with respect to the Consultation Regulatory Impact Statement, as many of the submission therein are still relevant to the Water Bill. This includes, but is not limited to, our comments with respect to the great importance of strong

water conservation legislation, and concerns that these proposed amendments will put this resource, and consequently the ecology and people dependent on it, unnecessarily at risk. We have reviewed the *Decision Regulatory Impact Statement Strategic Review of the Water Act 2000*, September 2014, (**Decision RIS**) and the responses to concerns raised in the previous EDO Qld submission are in no way appeased.

As we stated in our previous submission, there is currently insufficient understanding of existing impacts on our water resources, with 23 of 107 Surface Water Management Areas and 53 of the 99 Groundwater Management Units in Queensland having been assessed as being already highly developer or overdeveloped.[1] The so-called 'Smart State' needs increased and more effective management and regulation of water. These proposed amendments introduced to 'cut red-tape' for business and industry appear to be leading Queensland to an over-simplified and ineffective water management framework that could be leading the State to environmental, economic and social disaster.

Summary of key concerns

Further to our previous submission on the RIS, the main concerns forming our submissions on the Water Bill include that:

1. Adequate research has not been undertaken to inform the significant deregulation of water use proposed. Reductions in regulation of water use should only be undertaken if informed by thorough hydrological studies and broad consultation, otherwise they may lead to high risk impacts. There is no evidence to demonstrate that such studies or extensive consultation have been undertaken.

2. The guarantee of access to water for large scale water users prior to full assessment is dangerous. Further, the environmental assessment undertaken by large scale water users for the purposes of seeking approval of their projects is not an adequate and reliable basis for amending regional water planning. The assessment of large scale water users should not be weakened and should remain consistent with all water licencing and assessment processes currently.

3. The further streamlining of water allocation processes is oversimplifying water management, creating uncertainty through lack of adequate planning, research and consultation and putting water availability at risk. Water allocations should only be provided where there has been adequate research and understanding developed of existing and likely future impacts to other water users and the environment.

[1] Australian Government, (12 May 2013), *National Land and Water Resources Audit 2000*, available here: http://data.gov.au/dataset/australian-groundwater-flow-systems-national-land-and-water-resources-audit-january-2000

4. The move to give mineral resource projects a statutory right to take associated water is unwarranted and risky. All resource projects, including mineral, gas and petroleum projects, must be required to undertake standard, publically notified, water licence assessment processes under the Water Act to ensure equality between users and to limit environmental impacts from these large water users.

5. The environmental impacts from placing fill in and excavating material from watercourses must be considered in the assessment of applications for Riverine Protection Permits and other approvals to remove material from the beds and banks of streams. Applicants must be required to prepare an environmental management plan, and any adverse impacts on watercourses must be required to be remediated.

6. There is not currently adequate understanding of springs in Queensland to limit the particular springs which must be included in a spring impact management strategy. This may lead to impacts to unidentified springs and associated aquifers occurring without scrutiny.

We support the proposal to remove the statutory right of the holder of a Petroleum Lease or Authority to Prospect to extract non-associated water, along with various other proposals detailed through the annexure to this letter.

Solutions

We draw your attention to the more detailed analysis and accompanying suggested solutions provided in our annexure, which together with this letter form our submission on the Water Bill. We hope that you will give consideration to these solutions and adapt them into your review of the Water Bill.

Should you require any further information, please contact [redacted]. We request the opportunity for further participation in the development of this important policy. Please advise us when is convenient for us to meet with you in person to discuss these proposed amendments further.

Yours faithfully

Environmental Defenders Office (Qld) Inc

[redacted]

Jo-Anne Bragg
Principal Solicitor

Environmental Defenders Office (NQ)

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Annexure

Detailed Submission on the *Water Reform and Other Legislation Amendment Bill 2014*
EDO Qld and EDO NQ

1. Risky and ill-informed deregulation of water use

Clauses 62; 63; 64; 68 (new Part 2, Division 3 & Division 4; new Part 3, Division 1, Subdivision 1; new section 109); 81 (new section 370A)

The Water Bill proposes the deregulation of water use for 'low risk' water activities. This deregulation appears to be proposed through:

- New catchment-based water plans which may remove the need for a water licence;
- Removing the requirement for licences where there is a perception that the risk is low and there is no water plan or the water plan does not otherwise remove the need for a licence.
- Redefining of 'watercourse' and the introduction of the watercourse identification map which will identify watercourses which will be deregulated;
- Removing the requirement for assessment under the Water Act where an environmental authority provides for take or interference with overland flow water;

The Explanatory Notes to the Bill state that deregulation will occur after a 'rigorous assessment process', to ensure that risks are low and mitigated.[2] It appears that the Bill already purports to deregulate water use through the amendments proposed above, with no mention of the 'rigorous assessment process' having been undertaken. The Bill further does not list the criteria by which the chief executive will elect to deregulate impacts on a watercourse, nor does the Bill provide for public consultation with respect to the development of the watercourse identification maps, leaving it completely at the discretion of the chief executive at the time. Only through making the criteria used by the chief executive clear and publically available and providing for extensive public consultation with stakeholders and informed experts will the proposal to deregulate water use on specified watercourses be transparent, certain and fair.

The regulation of riparian vegetation clearing, particularly in the Burdekin, Mackay, Whitsunday or Wet Tropics catchments, will also be weakened through these proposals where regrowth vegetation would otherwise have been protected under the *Vegetation Management Act 1999*.[3] Riparian regrowth vegetation is integral to ensure bank stability and limit sedimentation of our water bodies and the already threatened Great Barrier Reef. All of these catchments listed above feed into the reef. Australia is already on warning from UNESCO with respect to our management of the health of the Great Barrier Reef. These proposed amendments will push Australia one step closer to having the Great Barrier Reef listed as 'in danger', which would have significant economic impacts on our tourism industry, let alone the environmental damage this declaration heralds for the reef.

[2] Explanatory Notes to *Water Reform and Other Legislation Amendment Bill 2014*, page 15.
[3] *Vegetation Management Act 1999*, section 20AB.

Case study: Lakeland Downs – Cape York Peninsula

The Committee should be aware that the deregulation of water use has been trialled in Lakeland Downs of the Cape York Peninsula, where upstream limits on declared 'watercourses' were put in place. Feedback to EDO NQ from stakeholders, including indigenous groups, in this catchment has highlighted significant impacts already from this deregulation. In particular, many water users at Lakeland now have limited access to water as the landholder in the head of the catchment has unregulated capacity to intercept and store runoff that previously flowed downstream of their property. Traditional Owners on the Laura River are also very concerned at the lack of environmental flows in the river from the deregulated area.

Allowing water use without any assessment or monitoring does not in any way protect the rights of water users or the ecology of the river, its riparian zones, aquifer recharge areas on adjacent floodplains or the World Heritage listed Great Barrier Reef downstream. ***All water use must be regulated, monitored and restrictions enforced to maintain and protect environmental flows and the ecological values associated with rivers.***

Solutions:

(1) Water use impacting on all watercourses should require an application and assessment under the Water Act, to ensure that water use is well regulated and able to be monitored, and cumulative impacts are able to be adequately calculated and mitigated.

(2) Should this proposal be implemented, the criteria under which the chief executive will make the decision to deregulate activities impacting certain watercourses must be clearly set out in the legislation. A clear obligation must be ensured in the legislative framework that provides for the balance of social, economic and environmental values in the assessment process.

(3) Should this proposal be implemented, proponents should be required to notify the relevant department of their intended 'low risk' water usage and an obligatory publically available register be maintained by a government department of each activity being undertaken in deregulated areas.

(4) Regular monitoring of 'low risk' activities and possible cumulative impacts arising in catchments must be ensured.

2. Unfair and irresponsible provision of upfront commitments to water access to large-scale projects

Clause 68 (new Chapter 2, Part 2, Division 7)

Water development option not a sustainable option

The Water Bill provides for the ability of the chief executive to grant a water development option, which guarantees access to water for 'major water infrastructure projects', being coordinated projects or those likely to become coordinated projects. This guarantee will be given prior to the impacts of the large scale project being fully assessed. We support in principle the practice of development proponents turning their attention to whether there may be adequate water supplies for their project at the initial stages of proposing a development. This has typically been a last minute consideration after all other approvals have been secured, putting pressure on governments to provide water licences to ensure the project continues after getting so far down the approval track. However, any guarantee of access to water must be based on a fully informed assessment of impacts, including cumulative impacts to the ecology and other water users.

Informed decision making should not be sacrificed to a policy of streamlining approvals and assessment processes for projects that will have some of the biggest impacts to water resources. Inadequate assessment of impacts prior to approval will lead to impacts in the future to ecology and other water users which will create far more complications than simply undertaking thorough assessment prior to approval. Also, the provision of guarantees to access water must also be publically notified to ensure that the assessment of the impacts is adequate and informed. The proposed amendments do not appear to provide for these assurances.

While the *Decision Regulatory Impact Statement Strategic Review of the Water Act 2000* acknowledges previous submissions to the Regulatory Impact Statement urging that eligibility criteria should be established in the legislation, this has not been adequately undertaken. Currently the Bill provides that the chief executive, in deciding whether to grant a water licence, must consider 'whether an environmental assessment is *likely* to demonstrate that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated'.[4] This is not a strict enough test. Further, acknowledging that there is the power to cancel the option if it is demonstrated that there is not sufficient water or the ability to mitigated impacts, this power must be obligatory and not at the sole discretion of the chief executive.

Proponent environmental impact assessments are inappropriate to inform water plans

Clause 68, new section 52)

The Bill proposes to allow amendments to water plans on the basis of project specific environmental impact assessments ('**EIA**'). Given that these EIAs are prepared with a view to

[4] *Water Reform and Other Legislation Amendment Bill 2014*, clause 68, new section 85(d) to *Water Act 2000*.

obtaining approvals for the development of a project, it is highly unlikely the respective EIAs would provide an unbiased representation of the potential impacts posed by the project. It is not appropriate or reliable material to inform amendments to water plans. These water plans are typically rightfully developed and amended with a high level of consultation with all stakeholders likely to be affected, audited by third parties and integrate regional studies from multiple sources to ensure cumulative impacts from and upon water users are adequately taken into account.

Solutions:

(5) Clear and stringent criteria for providing sufficient analysis of the impacts the project will have on water availability in the affected catchment area/s.

(6) New proposed section 90 to the Water Act, which provides the power to cancel a water development option if the environmental assessment for the major water infrastructure project does not demonstrate sufficient water is available to support the project, and that any significant impacts on flows can be mitigated, must be amended to make this power compulsory to exercise in these circumstances.

(7) Applications to grant a water development licence should be publically notified, including where the chief executive decides to grant a water development option without an application under a regulation (Clause 68, proposed section 84). This will be to ensure transparency and full impact assessment is provided for.

(8) The assessment as to whether to allow an extension to a development option should require a re-assessment of impacts this might pose on water availability.

(9) As stated in our previous submission, if this proposed procedure is put in place, we recommend an independent review process, separate from any industry ties, be mandatory on each EIA to ensure their accuracy and adequacy. Currently the Department of Natural Resources and Mines (DNRM) appears to have a mandate that is pro-development of the resource industry rather than the conservation of water resources. The Department of Environment and Heritage Protection and the Department of Agriculture, Fisheries and Forestry currently appear to defer to DNRM in regard to water catchment matters. Therefore, this independent assessment body should be separate from these Government Departments. Alternatively EIAs could be undertaken entirely by an independent third party.

(10) Further, the terms of references for EIAs must thoroughly integrate the water related matters provided for currently in the Water Act for applications for water licences.

3. Conversion of water licences to allocations must only occur with appropriate scientific evidence

Clauses 68 (new proposed section 43; Chapter 2, Part 2, Division 6)

Currently, water resources are managed through water resource plans (WRP) – statutory instruments which establish the strategic framework for allocation and management of water resources, and resource operation plans (ROP) – administrative instruments which implement the day to day WRP operation framework. To formulate WRPs and ROPs, significant consultation is undertaken with the public, industry, local government and other stakeholders, as well as experts. Plans are updated as more scientific research is completed to inform the plans.

Currently under ROPs, water licences are able to be transferred to another parcel of land through the 'relocation' of the water licence, where relocation is provided for in an ROP. However an application process is set out which first requires water security assessment of the relocation area.

It appears that under the proposed arrangements, bulk conversion of water licences to tradable water allocations will occur through a Water Entitlement Notice under the proposed Chapter 2 Part 2 Division 6. The steps leading to the bulk conversion include:

- the making of a draft water plan[5] under the proposed Chapter 2 Part 2 Division 3, which must "state arrangements for providing water for the environment including the measures, strategies or objectives for environmental flows" (proposed s.43(1)(d));
- the draft water plan may "state the arrangements and process for converting, adjusting or granting water entitlements or other authorisation under a water entitlement notice" (proposed s.43(2)(g));
- notice to 'affected persons' and submissions are available on the water entitlement notice (proposed s. 72(2)(c));
- a 'referral panel' 'may' be established under the proposed s. 241, and if so established, its recommendations must be taken into account when the chief executive decides the Water Entitlement Notice (proposed s.75(1)(b));
- the bulk conversion of water licences to water allocations will allow for these entitlements to be traded; and
- no merits review is available for decisions on the Water Entitlement Notice (proposed s.77(b) and current s.851 of the Act).

We submit that it is essential that any conversion does not take place without having recourse to hydrological modelling, which is needed to analyse the impacts of these conversions on the environment or the security of existing un-supplemented water allocation holders. The Bill however, does not appear to require hydrological modelling as a precondition to conversion. Nor does it allow merits appeals to the Land Court on the Water Entitlement Notice decision.

[5] WRPs are now Water Plans, provisions of ROPs may be read as references to provisions of other documents (e.g. water licence, water plan etc) if the context permits (cl.201 Bill inserts a proposed s.1266).

For sustainable management of Queensland's water resources, there must first be sufficient testing to understand what the impacts are on the environment and on the reliability of access to water for existing water users and their rights, before allowing water trading. However the Decision RIS indicates that decisions to convert '*may* still be based on hydrological modelling *where available* and where specifically required" (emphasis added).[6] Neither the Bill nor the Decision RIS require decisions on the conversion to be based on scientific data.

Finally, we note with concern that the Decision RIS[7] indicated that up to 8000 water licences could be converted to water allocations through the proposed streamlined process of Water Entitlement Notices. The Government has still not indicated what the quantity of water is involved in these water licences, and so the significance and impacts of the reform is still unknown to the public.

Breach of fundamental legislative principle of natural justice, the right to be heard[8]

Something should not be done to a person that will deprive the person of some right, interest, or legitimate expectation of a benefit without the person being given an adequate opportunity to present the person's case to the decision-maker.[9]

With the absence of robust hydrology models in many of the areas already identified as moving from licences to allocations,[10] DNRM will be unable to test or ascertain the third party impacts of a water trade, which could result in existing water allocation holders having their water allocation security objectives compromised.

We assume that the consultation requirements for both the draft Water Plan and the draft Water Entitlement Notice[11] are an attempt to identify and hear the concerns of existing water allocation holders. However in the absence of high integrity hydrology models to test the potential impacts, there is no certainty that the streamlined process will result in sustainable use of water resources, or that all 'affected persons'[12] will be given notice.

This may be partly remedied by amending the proposed s.72 to allow 'any person' to make a submission on a water entitlement notice.

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[6] Queensland Department of Natural Resources and Mines, Decision Regulatory Impact Statement Strategic Review of the *Water Act 2000* (September 2014), available here (accessed 8 October 2014): http://www.dnrm.qld.gov.au/__data/assets/pdf_file/0013/207400/decision-ris-review-water-act.pdf at page 21.
[7] Ibid.
[8] *Legislative Standards Act 1992* (Qld), section 4(3)(b).
[9] Office of the Queensland Parliamentary Counsel – Fundamental Legislative Principles: The OQPC Notebook, 2008, available here: (accessed 8 October 2014): https://www.legislation.qld.gov.au/Leg_Info/publications/FLPNotebook.pdf at page 25.
[10] Queensland Department of Natural Resources and Mines, Decision Regulatory Impact Statement Strategic Review of the *Water Act 2000* (September 2014), available here (accessed 8 October 2014): http://www.dnrm.qld.gov.au/__data/assets/pdf_file/0013/207400/decision-ris-review-water-act.pdf at page 17.
[11] Proposed s.72.
[12] Cl. 202 of the Bill.

Breach of fundamental legislative principle of power being subject to appropriate review [13]

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review. In this case, as individual rights are potentially being affected, a merits-based review is the most appropriate type of review.14

It is not apparent that merits review is available to challenge decisions on the Water Entitlement Notice, either for 'affected persons' or for the public, as the proposed s.77(b) does not require the giving of an 'information notice' (which then triggers appeal rights under Chapter 6 of the Act). We consider that merits review is appropriate given that some parties may have their existing rights affected. This is especially important where there is an absence of high integrity hydrology models, as it means there is potentially a lack of certainty on who will be impacted and the extent of the impacts on existing water users.

Breach of fundamental legislative principle of sufficient regard to the institution of Parliament[15]

The trading rules will be set out in the Water Entitlement Notice. This Notice is approved by the Governor in Council however unlike the water plan[16] or a water use plan,[17] there is no explicit reference that the Water Entitlement Notice is subordinate legislation and therefore subject to the same level of parliamentary scrutiny.

Solutions:

(11) In the absence of high integrity hydrology models to test the potential impacts on ecosystems and existing water entitlement holders, the streamlined process provided for in the proposed Chapter 2 Part 2 Divisions 3 and 6 for the conversion of water licences to tradeable water allocations should not occur as it is a high risk strategy and contrary to the precautionary principle.

(12) We do not support the amendments in Chapter 2 to convert water licences to water allocations in the nominated Water Planning Areas. If this aspect of the reform is to proceed, we submit that Chapter 2 must include mandatory provisions to ensure:

- *there are high integrity hydrology models developed for each area to establish the impacts of entitlements on ecological assets and the security of access for each entitlement;*
- *there is a reduction in the amount of water taken for consumptive purposes for those groundwater areas under stress from overuse and/or the over-allocation of entitlement;*
- *Proposed s.72(b) is amended such that submitters are given an 'information notice', thereby providing third party merits review for decisions on the Water Entitlement Notice.*

[13] *Legislative Standards Act 1992* (Qld), section 4(3)(a).
[14] Office of the Queensland Parliamentary Counsel – Fundamental Legislative Principles: The OQPC Notebook, 2008, available here: (accessed 8 October 2014): https://www.legislation.qld.gov.au/Leg_Info/publications/FLPNotebook.pdf, page 18.
[15] *Legislative Standards Act 1992* (Qld), section 4(4)(b).
[16] Proposed s.48(1)(b).
[17] Proposed s.63(b).

4. Favouring resource sector at expense of environment, landholders and small business
Clauses 11, 14 and 15

The Water Bill proposes to homogenise the statutory rights to groundwater for both the mineral extraction and petroleum and gas industries. In particular, it proposes to grant holders of a Mining Lease or Mineral Development License a statutory right to associated water, with a requirement they enter make good agreements with affected bore holders.

The proposed amendments are clearly biased in favour of the interests of resource industry developers. If enacted, the amendments would undermine the extensive consultation conducted previously by the Queensland Government over many years in the development which provided a platform for the legal rights of other small and large operators to be protected in decision making processes.

Mineral Resources Act 1989 (Qld) Amendments
In a decision from the Land Court of Queensland in April[18] of this year, the Court 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 (**EIS**) made to the Coordinator-General for the Alpha Coal project, proposed to be one of the biggest coal mines in the world. These proposed amendments will put enormous weight on the EIS prepared by the favoured industries.

With severe staff cuts undertaken by the Queensland Government to key departments such as the Department of Natural Resources and Mines (**DNRM**) and the Department of Environment and Heritage Protection (**DEHP**), there is already unrealistic pressure on department staff to validate developer assessments. Further, environmental impacts in EISs are assessed by DEHP, which is not staffed with experts in hydrology or hydrogeology.

The new right to associated water is coupled with the obligation to enter into 'make good' agreements with affected bore holders,[19] and to record the volume of water taken.[20] While we support the introduction of this obligation, there is an inherent power imbalance between landholders and mining companies which must be accounted for through regulating the make good agreements. Independent solicitors and experts should be funded by the mining company to represent the interests of landholders in their negotiation of these make good agreements. The example of the Prentices, referred to in our previous submission to the RIS, demonstrated that the current process for make good agreements is failing bore owners. The case studies provided in our submission to the RIS have been included below for your convenience.

[18] *Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4)* [2014] QLC 12
[19] *Water Reform and Other Legislation Amendment Bill 2014* (Qld) Cl 11.
[20] Ibid.

In addition, it is a significant concern where mining companies will access the water required to 'make good' any impacts to water availability. It is therefore preferable that the mining company be required to purchase and transfer allocations under the relevant Water Resource Plan.

Petroleum and Gas (Production and Safety) 2004 (Qld) Amendments

We support the proposal to remove the statutory right of a petroleum tenure holder to take non-associated water.[21] However, the easier ability for petroleum tenure holders to obtain a water licence introduced by new proposed section 1277[22] may reduce the positive effect of the change.

Case study : Alpha Land Court Case

In the case of *Hancock Coal Pty Ltd v Kathryn Kelly and others*,[23] it was established by the Land Court that the proponents had not adequately studied the hydrogeological characteristics or impacts of their proposed mining operations on the groundwater outside of the mining site. By the nature of groundwater systems, impacts invariably extend beyond the limits of any project area. If built, this would be one of the largest coal mines in the Southern Hemisphere. If the EIS of a coal mine of this size, with the equivalent financial investment going into developing it, cannot be relied upon, clearly the current process for assessing EISs is not adequate to inform water planning at a regional level.

Case study : Landholders loose bore in face of make good agreement

A recent example, published by the ABC,[24] highlighted the importance of adequate regulation of water usage and the monitoring and enforcement of acceptable sharing arrangements between users. The Prentices, bore owners situated near Emerald, Queensland, have been left with a dry bore after entering into a make good agreement with the Ensham Mine which was based on allegedly unfounded technical information. This scenario is an important illustration of the need for both adequate studies to be undertaken for each water take, particularly where involving high water users such as mines, and that these studies be verified and monitored by a reliable third party, to ensure that landholders entering into make good agreements are doing so based on reliable and transparent information. Landholders should further be afforded reliable legal support to assist them in conducting make good negotiations.

[21] *Water Reform and Other Legislation Amendment Bill 2014* (Qld) Cl 14.
[22] *Water Reform and Other Legislation Amendment Bill 2014* (Qld), Cl 201.
[23] *Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4)* [2014] QLC 12
[24] ABC Rural, '*Central Queensland graziers left high and dry'*, published 25 July 2014, available here: http://www.abc.net.au/news/2014-07-24/nrn-jamar-embargo/5614382

Solutions:

(13) The mining sector should not be given a statutory right to associated water. Provisions must exist which require this sector to apply for water licences, to undertake adequate baseline monitoring, undergo thorough assessment by an independent third party, and for appropriate conditions to be placed upon activities to regulate and monitor water take.

(14) The take of non-associated water under a water licence, or under an existing petroleum tenure, should be subject to the same measurement obligations as associated water, found in section 801 of the Petroleum and Gas (Production and Safety) 2004 (Qld).

(15) Current petroleum tenure holders should be subject to the same process to receive a water licence under the Water Act as all other parties.

(16) Amendments to the management of water usage by mineral, petroleum and gas proponents must be based on adequate hydrological modelling and assessment prior to activities being undertaken, including the understanding of cumulative impacts to water bodies through the associated projects utilising or impacted by the same water source.

(17) Further, EISs must be assessed, monitored and enforced by an independent third party, and realistic remediation measures must be a part of conditions imposed on these projects, with adequate enforcement where breaches occur.

(18) Landholders must be provided with access to legal representation and independent experts for make good agreements, at the expense of the resource company.

(19) We support the removal of the statutory right to non-associated water for petroleum tenure holders.

5. Amendments concerning extraction of material in riverbeds

Part 6; Clause 68 (new Part 4)

The Water Bill proposes to amend sections of the River Improvement Trust Act 1940, including the introduction of a new object to the Act.[25] One of the main tools to implement the proposed objects is the issuance of improvement notices.[26] In the experience of EDO NQ, the power to issue improvement notices is often abused by River Improvement Trusts, which are embedded in the Council Engineering section. It seems frequently apparent that officers are providing improvement notices to those in their favour to approve the extraction of material from

[25] *Water Reform and Other Legislation Amendment Bill 2014* (Qld), Clause 22
[26] *Water Reform and Other Legislation Amendment Bill 2014* (Qld), Clause 38.

riverbeds under the pretense of removal of flood debris that is limiting the flow channel and flood carrying capacity of the stream.

Further new proposed Part 4 to the Water Act specifies two abilities to remove material from river beds.[27] There is no provision requiring the chief executive to consider environmental impacts when considering whether to grant a River Protection Permit, nor are applicants for such a permit required to prepare an environmental management plan. These permits allow the placing of fill or excavation in a watercourse, activities that have undeniable impacts to habitat and migration routes and may cause land degradation. It is essential that environmental impacts are considered in the decision as to whether to grant a River Protection Permit.
Finally, the rights provided in proposed section 218 do not have royalties attached.
Both of these approvals processes primarily see the river as being defined by its bed and banks and only a means of conveying water as a potentially saleable commodity. Rivers should be seen as part of a functional landscape that includes:

- the riparian zone that stabilizes the banks of the river;
- any floodplains adjacent to the river; and
- aquifer recharge zones either in the bed of, or adjacent to, the river.

Rivers provide a key ecological service and deserve a much higher level of protection for their waters and beds and banks than is provided by the Water Bill.

Solutions:

(20) The chief executive must be required to consider environmental impacts of any application for a River Protection Permit. Further, applicants must be required to prepare an environmental management plan to ensure impacts are avoided or mitigated.

(21) The chief executive must also be given the power to instruct an applicant to remediate any impacts that were greater than those expected on approval.

(22) The power to provide improvement notices by River Improvement Trusts be reviewed and monitored to ensure that it is not exploited.

(23) Approvals associated with the removal or placing of material in rivers be adequately valued to reflect the importance of our rivers.

[27] *Water Reform and Other Legislation Amendment Bill 2014* (Qld), Clause 68, new proposed section 218 and 227.

6. Reducing protection against impacts to springs

Clauses 89, 64 (new section 5AA)

The Bill proposes to amend section 379 of the Water Act which details the contents of spring impact management strategies for underground water management. Currently a spring impact management strategy must provide details of 'potentially affected springs', a defined term which still allows scope for all relevant springs that may be impacted by a project to be identified and included in an impact assessment. The amendments appear to propose to limit the springs which must be included in a spring impact management strategy to those identified in a watercourse identification map. As stated above, there is no evidence that sufficient research has been undertaken to inform the watercourse identification maps to instil confidence that all springs will be mapped. This is exposing our springs and the connected aquifers to unassessed and unmonitored impacts.

Further, currently section 379 of the Water Act requires that proponents must report on the options available to prevent or mitigate an impact to a potentially affected spring. This requirement is being omitted. We are uncertain why this requirement is being omitted as it requires that a proponent turns its mind to all possible options to prevent or mitigate impacts to springs, to ensure that the best strategy is undertaken. This is a part of good decision making strategy. This requirement should remain within the Water Act.

***Solution**:*

(24) The amendments to section 379 should be rejected to account for the limited understanding we have of our springs, to ensure adequate, cautious and well-considered management and interaction with our springs.

7. Flexible public notice requirements risky

Clause 189

We generally support the move to ensure provide notification methods are suitable to ensure they reach those parties who may be concerned with a decision making process. However, we are concerned that the discretion to choose any method for notification in various instances may lead to uncertainty for concerned stakeholders in knowing where to look to ensure they remain informed of possible impacts that may be of concern to them.

Solution:

(25) We recommend that at least one form of public notification be made standard for all notification processes, such as one point on the internet with provision made also for those who might not have internet access.

8. Further suggestions

We ask that the Committee also considers the following considerations, most of which were detailed in our previous submission.

Solutions:

(26) Ecologically sustainable development must be maintained as a central part of the purpose of the Water Act, so as to ensure vital safeguards such as the precautionary principle continue to be included as a part of assessment processes.

(27) Relevant government departments should be adequately resourced and staffed to ensure that monitoring and enforcement is undertaken of water users, enabling the government to easily maintain evidence of water usage to support enforcement actions.

(28) If it is not possible to ensure adequate resources and staff to monitor and enforce water usage across Queensland, the onus of proof should continue to rest with the water user.

(29) Maintain the requirement for the Coordinator-General to declare a project of state or regional significance in order for water to be allocated under a GAB WRP.

(30) Ensure adequate assessment processes and monitoring of GAB water use proposals and current projects.

9. Possible non-compliance with National Water Initiative

As stated in our previous submission, currently the Water Act complies with the detailed requirements outlined in the National Water Initiative agreement signed by the Queensland Government in 2004 (**NWI**). Due to the gung-ho deregulation of water use introduced through the Water Bill, there is the potential that the proposed changes may lead to inconsistencies with the NWI. The obligations Queensland agreed to when signing the NWI were undertaken to ensure sustainable management of our water resources. Any amendments to the Water Act must be in line with the NWI.

10. Consultation process inadequate

The Decision RIS details various bodies and organisations who were involved heavily with consultation processes in the drafting of the amendments outlined in the Water Bill. We note that none of these bodies were conservation focused or indigenous groups. This omission has seriously limited the benefits that normally arise from thorough and full consultation processes with all stakeholders who are able to inform sustainable and acceptable water resource planning. Full consultation with all stakeholders must be undertaken to ensure Queensland is a national leader in water management policy and policy adequately balances social, economic and environmental considerations.