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

Dear Ms Crighton

RE: *Water Reform and Other Legislation Amendment Bill 2014*

Thank you for the opportunity to make this submission to the Agriculture, Resources and Environment Committee of the Queensland Parliament on the *Water Reform and Other Legislation Amendment Bill 2014* (the Bill).

AgForce is the peak rural group representing the majority of beef, sheep and wool, and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around $4.5 billion in gross farm-gate value of production in 2012/13. AgForce exists to ensure the long term growth, viability, competitiveness and profitability of these industries. Our members provide high quality food and fibre products to Australian and overseas consumers, manage more than 50 per cent of the Queensland landscape and contribute significantly to the social fabric of rural and remote communities.

AgForce supports the undertaking of a review of the *Water Act 2000* (the Act) and streamlining and simplification of the framework of regulation around the management and allocation of water resources in Queensland. We also support making further water resources available for economic development in a responsible and sustainable way where this does not reduce the certainty, security and reliability of the current entitlements of primary producers, or increases the risk of adverse environmental impacts. It is important during the reform process that planning and the management of access to water resources remains transparent to the community as well as being efficient and equitable for both existing and potential new users.

The Minister's introductory speech indicated that the Bill is intended to ensure the State's water resources are used responsibly and productively, while retaining certainty and security for water entitlement holders, and deliver a balancing of economic, social and environmental outcomes. It includes providing a more consistent framework for the management of resource sector impacts on groundwater and seeks to provide more certainty to landholders whose bores may be affected by mining activities.

While generally supportive of the suite of proposed water-related reforms, this submission will focus on specific issues where further consideration is required to ensure the characteristics outlined previously are achieved effectively.

1. Purpose of the Act

The Bill provides a new overarching purpose for the Water Act that seeks to promote water development opportunities and striking the appropriate balance between environmental, social and economic outcomes in responsibly and productively managing the state's water and riverine quarry resources. It also seeks to manage impacts on underground water by the resource sector.

'Responsible and productive' management is defined in new s2(2) (page 85 of the Bill) which includes 8 areas of consideration, including the achievement of sustainable use limits and ecosystem health, while ensuring fair and transparent access to resources for all parties, and a building of confidence in the security of entitlements and authorisations to use water. AgForce members require certainty around the availability and security of existing entitlements, particularly in any balancing process between social, economic and environmental outcomes and when making unallocated water available. Environmental sustainability is a key principle in ensuring that water supplies are available for use by the current and future generations (a 'balancing' across time) and this is identified in s2(2a). The definition adequately includes the critical issues requiring consideration under water planning processes.

AgForce also welcomes the clarification in the Bill that considerations around the efficient use of water are to be delivered through the operation of water markets, in the initial allocation of water, and regulation only where there is a risk of land or water degradation.

2. Water Planning Framework changes

Given that first generation water planning processes have been undertaken in most surface water catchments across the state, the Bill seeks to now introduce more flexibility in the future reviewing of those water plans as well as the operational instruments (water management protocols (WMP), water entitlement notices (WEN), resource operations licences (ROL) and the distribution operations licences (DOL)) that implement those plans to achieve responsible and productive management of water.

a. Water plans

The Bill continues the current Water Act's inclusion of strategic objectives and outcomes for catchments or parts of the state through subordinate legislation, now to be called water plans. A new s43 outlines a range of required and non-mandatory contents including the desired triple bottom line outcomes, water allocation security objectives (WASO), trading zones, environmental water and reserves of unallocated water. These appear to continue to address the key requirements for an effective planning and resource management framework.

In developing and reviewing water plans it is vital that the community and existing primary producer water users are consulted effectively. This is proposed to be achieved through a non-mandatory preliminary public consultation process initiated by the Minister (new s44) but more clearly via the requirement to publish a draft water plan and take submissions (new s46) for at least 30 business days, then consider those submissions and report on how raised issues were addressed. This process also applies to significant amendments, where these might affect the rights of entitlement holders, or for the replacement of existing water plans. Consultation is also required in the Bill in the case of the postponement of water plan expiry for up to a plan life of 20 years.

These consultation arrangements generally provide adequate opportunity for landholder comment on any potential impacts to the reliability and security of their allocation and other matters, with the exception of the provisions around water development options (see below). However, if significant issues have been identified in a water plan area, a more intensive process

of key stakeholder and community consultation, including activating the preliminary consultation (new s44), should be undertaken so that these issues can be fully characterised and addressed.

b. Water management protocols, water entitlement notices, ROLs and DOLs

Replacing the current Resource Operations Plans (ROP) which are slow to implement, the Bill introduces:

- Water management protocols that deals with volumes of unallocated water and water allocation dealing rules, sharing rules, seasonal assignment rules, and criteria for deciding licences. These are prepared, amended or replaced by the Chief Executive and must be consistent with the water plan outcomes and strategies and include adequate consultation with affected parties.
- Water entitlement notices to convert licences and other entitlements to allocations, for granting of allocations or licences resulting from the release of unallocated water or a water development option, and the repealing or amendment of licences or cancellation of surrendered allocations. WENs are made by the Chief Executive and require public notification and a submission period of at least 30 days, prior to review by a referral panel and approval by the Governor in Council.
- Resource operations licence and distribution operations licences – the Bill introduces similar provisions as in the current Act but including enabling the more detailed rules for the operation and supply of water to be included in an operations manual prepared by the licence holder (see below) that must be approved by the Chief Executive. The manual must be consistent with the relevant water plan, and involve consultation of water-users.

These elements are intended to deliver simpler and faster, catchment-specific implementation mechanisms for the new water plans, such that their preparation can commence once a draft water plan is released, rather than being delayed. It is expected that existing ROPs will be transitioned into WMPs and operations licences without altering water management in each catchment. Such streamlining and increased flexibility in line with the outcomes of the water plan, and importantly with retention of water user consultation provisions, is generally supported by AgForce.

c. Water development options

AgForce supports the Government's policy objective of a doubling of agricultural production from the state by 2040 and sees large scale agricultural development projects as one avenue that will contribute to achieving this target. The Bill introduces water development options (WDO) which are essentially a conditional commitment by Government to provide future and prioritised access to water to major, coordinated water infrastructure development projects in order to reduce investment risk for project proponents and facilitate development. This could help support greater investment in Queensland agriculture, particularly in the north of the state.

However there are a number of concerns about the current drafting of the Bill that require further consideration by the Committee.

c1. ***No disadvantage to existing water users*** – one factor that must be considered in designating a project as a major infrastructure project is the potential for significant impacts on existing authorisations (new s82(2c)). The Chief Executive must also consider if impacts on the environment and existing authorisations can be adequately mitigated (new s85d), including through imposed conditions (new s86(g)), and the availability of alternative supplies (new s85).

The most effective way to ensure existing users are not disadvantaged is if the proponent was firstly required to avoid having an impact on them and the environment rather than relying on subsequent mitigation of those impacts. Opportunities to access water would therefore largely

be in the context of the available existing strategic reserves or yet to be allocated water that can be sustainably taken. However, to the extent that avoidance of impacts cannot be achieved, there needs to be enough flexibility to ensure mitigation is effective, such as enabling movement of water to affected users or requiring investment in measures delivering sustainable improvements in water use efficiency. There are heavily developed catchments where the available water is already held under entitlements leaving little to no options to secure water without an impact. However water is identified and allocated to a WDO it should be consistent with the proposed purpose of the Act, which is build confidence in the security and value of water entitlements.

c2. ***Transparency and stronger consultation requirements*** – The Bill currently does not require direct consultation of potentially-affected water users or the community in granting a WDO, and a WDO can even be granted without application through a process described in a regulation, which potentially lacks transparency (new s84). If the WMP has to be amended to implement a WDO then the Chief Executive (or Minister in the case of a water plan amendment) must be satisfied that adequate consultation by the WDO holder has taken place and that proposed arrangements would mitigate impacts (new s91(5a and b)).

Unless it contains a specific and clearly delineated section dealing with the same considerations as required under a water plan consultation, including the impacts on other water users and the environment, AgForce does not view the EIS process to be equivalent consultation to that undertaken under a water plan process (new s52(3b)). Greater transparency is required in the WDO application and approval process with the views of other water users more clearly taken into account.

c3. ***Equity for small scale, local developers and guarding against 'water banking'*** - Consideration should be given to enabling the WDO process to accommodate a wider range of business models, including aggregated multi-proponent projects by local landholders of a significant scale to justify Government coordination, in addition to the currently identified major infrastructure projects. Thresholds would need to be flexible and include land area based thresholds as well as those around financial investment (up-front or final cost at completion). Progressive scaling up of smaller enterprises should also be capable of accessing government consideration in reserving water where a viable business plan can be proposed.

AgForce supports WDO being time limited, with some limited discretion for extension under reasonable circumstances, and able to be cancelled in the event that an environmental assessment for the project does not show that there is sufficient water available for the project (preferably without impacting on other stakeholders), or that impacts cannot be adequately and confidently mitigated. By time limiting WDOs there will be a disincentive for holders to speculatively 'water bank' thereby stopping other genuine users from accessing it in a timely way for the purpose of actual development projects.

d. Matters dealt with through regulation

The Bill establishes a head of power (new s39) for regulations to deal with a number of planning-related issues including reserving unallocated water (if no water plan exists) and in prescribing;

- a process for the release of unallocated water (including by the Chief Executive)
- processes & criteria for establishing water allocation criteria and state-wide dealing rules
- processes for granting seasonal assignment of water
- types of regulated development works.

AgForce and other agricultural stakeholders should be consulted in the development and implementation of these regulations, including through the continuation of the Water Engagement Forum held by the Department of Natural Resources and Mines.

AgForce is supportive of an equitable and streamlined approach to making water available for further sustainable economic development. With the provisos outlined above, the changes to the existing planning framework proposed in the Bill should enable appropriate transparency and consultation in plan development and implementation while also reducing prescription, the time required for plan implementation and the cost of administration passed through to water users.

3. Authorisation of the take and interference with water or removing quarry materials

New Part 3 Division 1 of Chapter 2 outlines the statutory authorisations to take or interfere with water. As a key principle AgForce does not support any adverse change to, or reduction in, the existing rights associated with the take of water for livestock purposes.

a. Authorisations that may not be limited by water planning instrument or regulation

The general authorisations to take or interfere with water in the Bill include the take or interference with water from a designated watercourse (new s93 and s94). The reforms proposed include the development of a Watercourse Identification Map which will identify watercourses that are subject to regulations under the Water Act and those where specific authorisations or licences are not required to take water.

AgForce is supportive of a risk-proportionate reduction in regulation where the take or interference with the water is low risk and does not carry the potential for adverse impacts on other water users or the environment. Designating low-risk watercourses will provide greater clarity on obligations, reduce the number of licences that landholders may require and significantly reduce costs for both those landholders and the Government in administration.

However, there is also concern about the potential for adverse impacts on entitlement reliability for downstream and other users should deregulation result in increased takes in deregulated areas. This is particularly the case in catchments where water resources are already heavily utilised or fully allocated.

Key to addressing this issue is to have a set of clear, agreed rules about what triggers a deregulation decision, as well as involving and consulting with local community stakeholders and water users during the designated watercourse mapping process (under new s5AA) identifying low risk areas and uses and to be undertaken on a catchment by catchment basis. Supporting this consultation is including appropriate oversight and robust monitoring by the government to avoid the development of overuse problems, particularly in periods of low water supply or where downstream use is intensive.

It is preferable to avoid deregulating areas where this overuse could develop rather than having to re-regulate these uses at a later time. Again the concept of not reducing the certainty, security and reliability of existing entitlements of primary producers must be paramount.

b. Authorisations that may be limited by water planning instrument or regulation

The Bill proposes to make some changes to the treatment of water for domestic use, namely use can be limited by regulation where land subdivision could occur, and this is important particularly for peri-urban locations given that the area of garden that can be watered is also proposed to be increased to be not more than 0.5ha (unless allowed in a water plan) and with the removal of restrictions on the sale, barter or exchange of goods from these domestic gardens. Such regulation in areas where the resource is at risk is appropriate and supported where this protects the security and reliability of current entitlements. Plans can also specify the take of water for any purpose up to a stated volume or to carry out a specified activity (also capable of being prescribed as low risk takes under regulation). This implementation issue requires further stakeholder engagement.

c. Water licences and licence dealings

The current Water Act requires case by case assessment of impacts from a new licence grant or dealings with existing licences, including requiring public notification, submissions and assessment of changes. The Bill creates a simplified dealings process for existing licences (e.g. amending, amalgamating or subdividing) where the dealing does not have an effect on the resource, such as increases in the take of water, and so will not require public notification. Where more than one dealing is required for a low risk licence, these are proposed to be able to occur concurrently under one application. The large majority of existing licence dealings will come under this 'simple dealing' category and so simplify and reduce the time required and cost of licence changes for water users.

Applications for new licences or dealings that do represent a potential impact on the water resource (e.g. increased amount or rate of take or location if not permitted under regulation), will still require notification and assessment as if for a new application. Public notification is not required if the licence application is for taking underground water for livestock normally depastured on that land. Licences can also be granted without the need for an application if a process to do so is outlined in a water plan, WMP or regulation.

These streamlining changes to simple administrative licence dealings are supported by AgForce.

The current Act (s213A) specifies the term of a water licence as expiring at the end of 30 June 2111 and this provision should be continued for remaining licences (if not already).

d. Water allocations and accelerated conversion of entitlements

Water allocations are tradeable and separable from the ownership of land, thus becoming a registrable and mobile asset enabling water to more easily move to where the demand exists. While 80 per cent of the volume of water entitlements in the state have been converted to allocations, about 80pc of the entitlements (over 20,000) are still in the form of water licences. Currently conversion of water licences to allocations can only be delivered through the development of a WRP and ROP, requiring extensive public consultation and the development of operational rules. The Bill provides for an accelerated process by which licenses can be converted to tradeable allocations.

The Bill defines the attributes and conditions of a water allocation and provides a process by which a WEN can convert water licences, interim allocations and other authorities to an allocation, with provisions for supply contracts if the allocation is managed under a ROL. A water plan, WMP or regulation may also state a process by which the Chief Executive can grant a water allocation. An allocation is subject to the water plan and can be amended to be consistent. It is important when making trading rules and undertaking modelling that impacts on the reliability of stock and domestic takes in the area of proposed relocation are avoided.

Provisions are included in the Bill to manage obligations attached to an allocation under a scheme, such as providing security or payment of distribution charges, and notification of prospective allocation purchasers of these obligations and to obtain their acknowledgement of those obligations. These provisions should ensure full disclosure occurs around those water trades. Allocation dealing rules (permitted, assessable and prohibited) can be set out at a state level through regulation or in a WMP for a water plan area.

The value or performance of an allocation is supported by WASOs specified in the relevant water plan and protected by the Act. These are currently specified using the probability of accessing the full allocation nominal volume in a year and are built on longer-term hydrologic modelling. As some catchments lack robust data for modelling, the Bill proposes to alter the definition of a WASO (Clause 202) to be based on protecting the share of water that is available to the holder of

an allocation from within the consumptive pool. It is important during this redefinition process that the security, certainty and reliability of existing water allocations are not adversely affected by this more flexible approach. As such, the process of conversion of non-volumetric licenses to volumetric allocations should be done on a catchment by catchment basis using an equitable and fully consultative approach to ensure negative impacts on existing farming business models are avoided or minimised.

This license conversion works together with the watercourse deregulation process (commented on above) as well as the further removal of regulation of low risk activities using small amounts of water, either by regulation or in specific water plans. In extending the definition of low risk activities to a greater range of activities, including resource sector developments, it is important that these are able to be developed through the water planning process in consultation with the community and stakeholders so that high risk catchments can be managed appropriately.

Generally, these proposed changes will simplify and streamline conversion to allocations in order that priority areas are expected to be fully converted by the end of 2017. Given their tradable value, AgForce supports the metering of allocations when they are issued. While metering costs will increase in transitioning from licences, this conversion is expected to provide greater flexibility for agricultural license holders in temporarily or permanently trading water and more closely matching their water requirements across time. These would be positive outcomes

e. Resource operations licences and distribution operations licences

Local self-management by ROL holders will require effective Departmental monitoring and oversight of water sharing and trading rules to protect the security and reliability of relevant entitlements within a scheme, with consultation a necessary step for the development of operational protocols. The requirements (new s198) for operations manuals to be approved only where it is consistent with water plan outcomes, where it achieves objectives around WASOs and environmental flow objectives, and where developed in consultation with affected persons (with referral panels available to manage disputes), should address most concerns around transparency and fair dealings.

The surrender of allocations may place financial pressure on schemes, particularly where opportunities to trade are limited, and so the commitment of the Chief Executive to accept liability for fees under supply contracts is important in ensuring confidence about ongoing scheme viability.

f. Riverine protection and quarry materials

In relation to riverine protection and quarry material allocations there are still references to the repealed *Wild Rivers Act 2005* provisions in the Bill (new s220(h), new s227(3)). Unless these remain relevant under transitional provisions they are likely a drafting oversight and should be removed.

4. Managing the impact on groundwater by the mining and petroleum and gas sectors

AgForce approached the government in 2013 about providing greater certainty and security for landholders in relation to impacts by the mining sector on underground water supplies through a more consistent application of 'make good' provisions. Currently mining tenure holders require a licence or permit under Chapter 2 of the Water Act for their take of underground water where this occurs in regulated areas. Many of these authorisations contain conditions around 'making good' for impacts on surrounding landholders, however landholders, including those located off-tenure, have been seeking more proactive provisions prior to any impacts occurring.

In contrast Petroleum and Gas (P&G) tenure holders currently have an unrestricted right to take water for any purpose, subject to their underground water impact obligations under Chapter 3 of

the Water Act. This includes both 'associated water', which is groundwater unavoidably and necessarily taken in extracting their resource, and 'non-associated water' (NAW) which is water used for other operational purposes but not intrinsic to accessing their resource. NAW includes water used for fracking and in construction and operation of camps etc.

The Bill amends Chapter 3 of the Water Act to transition mining companies extracting associated water into the same underground water impact obligations that apply to the P&G sector, ensuring proponents monitor their water take and enter into make good agreements with landholders whose bores are affected. The Bill also transitions the current NAW rights of the P&G sector into the same planning and authorisation framework that applies to other consumptive users of water resources.

AgForce is supportive in principle of the Government's moves to bring the resource sector into a more consistent framework around managing their impacts on groundwater as well as bringing their access to NAW into the broader water planning and management framework that other users including agricultural users operate within. The following sections raise specific issues around these transitions that we believe the Committee needs to consider further.

a. Mineral resource sector – associated water

a1. Chapter 3 amendments

Primary producers must have confidence that there will be a proactive protection of their access to water for livestock and domestic uses as well as other agricultural business purposes, such as irrigation. This confidence comes from having:

- Accurate pre-development baselines on their agricultural water bores
- Underground water impact reports that establish clear obligations
- Robust monitoring programs and accurate assessment of potential and actual impacts on water bores
- Negotiation and entering into acceptable 'make good' agreements
- Plans for dealing with cumulative and post-activity impacts over the longer term.

AgForce supports the requirement for new mining tenure holders to prepare Underground Water Impact Reports (UWIR), baseline assessment plans (BAP) prior to the exercise of underground water rights, undertake bore assessments for immediately affected bores and the negotiation of make good agreements as necessary. The capacity to establish cumulative management areas (CMA) for mineral developments and the involvement of the Office of Groundwater Impact Assessment (OGIA) is also supported.

a2. Exemptions applied

However, the requirement to prepare UWIRs (new s369A) and BAPs (new s394A) does not apply to holders of a mineral development license (MDL) or mining lease (ML) if they have a water licence or permit to take or interfere with underground water or have a lawful entitlement to do so immediately before commencement, such as in an unregulated area. The requirements do apply however if the mine does not have a licence or permit and is in a regulated area.

AgForce understands that the government's intention to provide a statutory right to take associated water will be extended to all MDL and ML holders (new Chapter 12A in the *Mineral Resources Act 1989*). Given this universal right it is reasonable to expect that all the associated obligations around underground water impacts would also be universally applied, without exempting existing mines that may already be having an impact on the water supplies of surrounding landholders. Acknowledging the difficulties in understanding past groundwater impacts, developing robust baselines is an important component in establishing associated impacts on landholder bores and associated responsibilities.

The Bill does however apply the requirements to prepare a UWIR and a BAP to mines that are called in by the Chief Executive (CE) on the basis of impact considerations (new s369A(4)), or that are identified to be a Cumulative Management Tenure (for a UWIR), or that start dewatering after commencement if located in a regulated area. It is not clear when the CE would exert this power but it should not be limited to rare 'exceptional circumstances' and should be applied whenever there is any risk to a landholder's bore. The CE can also give a direction to a tenure holder to undertake a bore assessment (new s418) if a bore has been or is expected to be affected, which also triggers a need to negotiate a make good agreement.

Further, AgForce understands that all mines, including those identified as 'low risk' under regulation, will have a general obligation to enter into a make good agreement should they exert their underground water rights after the date of commencement (new s406). To remove doubt, the wording of new s406 should be such so as to ensure that all resource tenure holders, whether exerting or not exerting their underground water rights or entitlements prior to commencement, are captured by this general obligation after the date of commencement if they take water or continue to take water after that date.

While preferring all mines to fully transition to provide the greatest certainty to potentially affected landholders, AgForce supports the inclusion of call in and general obligation provisions in the Bill. Ongoing consultation with affected or potentially-affected landholders should be part of the process of identifying Cumulative Management tenures for inclusion and for the exertion of the call in powers and the requirement to undertake a bore assessment by the Chief Executive.

a3. Low risk exemptions and area exclusions

The Bill also includes provision (new s370A) for an exemption under a regulation from the need to prepare UWIR and BAP for some low-risk mining and petroleum tenures while they remain low risk. The definition of what comprises 'low risk' activities is to be identified in a regulation and is not included in the Bill nor is a process to monitor their low risk status over time. This is concerning and needs to be addressed. The government needs an effective auditing and monitoring regime to identify divergences between modelled impacts and actual underground water impacts. Any mining activity exclusions to the application of this framework should only occur where there is a high degree of confidence, based on robust and objective knowledge, that there is little to no risk of adverse impacts on other water users.

Following the Land Court's recent questioning of hydrological modelling it is concerning that the Chief Executive can accept a baseline assessment plan that excludes an area on the basis that a tenure holder can 'demonstrate' aquifers are not likely to be affected by more than the bore trigger threshold (new s397 (5b)). Potentially-affected landholders should be consulted for their views prior to this exclusion being granted and the precautionary principle applied to these decisions, particularly given the identified need for amendment if this exclusion proves incorrect (new s401(2A)). This adaptive process is not proactive enough to protect vital stock and domestic water access and cannot deliver robust baselines over time, particularly when a producer seeks to establish other new water developments on their property.

a4. Other considerations

Bore trigger thresholds also need to be specific to the aquifer or management unit under consideration, with smaller drawdowns in some aquifers having a greater effect on the availability of water for agricultural purposes than others. Further, 'make good' obligations need to be over the life of the impact with a clear need to secure a resource company's responsibilities in this regard after the resource extraction is completed.

The take of associated water by the mining sector should also be subject to the government's principles around the use of associated water, as outlined in the CSG Water Management Policy 2012. This includes encouraging the beneficial use of associated water in a way that protects the

environment and maximises its productive use as a resource. This productive use could include the supply of 'fit for purpose' replacement water as part of a make good agreement rather than allow mining activities to rely on evaporation to deal with associated water, particularly given the size of some proposed new coal mines. It would also help to reduce the volumes of contaminated mine water that could potentially be released, such as in the Fitzroy River catchment.

b. Petroleum and gas sector – non-associated water (NAW)

The expected continued growth of the P&G sector, including new areas of unconventional operations, is likely to require a significant increase in their take of NAW with an associated potential risk to the security of access to water for existing agricultural water users in those areas. Around 92 per cent of AgForce members in the Lake Eyre Basin identified groundwater quality and volume as 'very important' natural values to be protected. All respondents indicated that the P&G industry should either be prohibited or regulated, with less than 5 pc indicating support for non-regulatory approaches and only outside of watercourses. There were a range of significant concerns about fracking operations and it is important that NAW water releases are supported by a robust scientific knowledge base and at very low to no risk of adverse environmental or third party impacts.

The Government has decided to address this issue by bringing NAW use by the resource sector under the water planning and allocation framework that applies to other consumptive uses and remove the current statutory right to NAW and replace it with licences and permits. This will promote the delivery of certainty and security for existing stock and domestic and other agricultural water entitlements holders using the same sources of water. As such AgForce are supportive of the removal of any existing right for the P&G sector to take unlimited volumes of NAW.

In order to adjust to the new arrangements a two-year transitional period is proposed to be provided for existing tenure holders, increasing up to five years within the Surat CMA (Clause 15 of the Bill). During this period tenure holders will have to commence measuring and reporting the volumes of NAW taken. It is unclear why a 5-year-period is being applied when the Surat CMA is currently the most active development area and as such will have the greatest immediate demand for NAW. The Explanatory Notes indicate that this is to enable the GAB WRP to be reviewed to ensure water is available to meet the requirements of the sector and so that a general 'risk based' exemption is available for licences to access deeper GAB aquifers. The continuation of the existing NAW rights during this extended period does not seem to effectively take into account the interests or future development aspirations of other water users in the GAB, with the bulk of this NAW take potentially occurring before the transition period ends.

The Bill also provides special transition provisions (new s1277) in the form of guaranteed licences or permits to cover the need to take NAW for P&G tenure holders who request an authority during the transition period. The CE is required to consider the tenure holders historical take (including location), the water required to meet their development plans or work program as well as impacts on other water users and the environment. This needs to be a transparent process resulting in justifiable water volumes being permitted.

No public notification process is currently required under this special transition provision. AgForce would support including more consultation with potentially-affected landholders, particularly as these NAW licences will not attach to a specific land area (tenure holders are a prescribed body under new s106(2)). Where planned P&G activity occurs in areas where the water resource is already fully or close to fully allocated (e.g. the Condamine Alluvium) it is unclear how existing users will be considered and prioritised if the Chief Executive is required to provide a licence or permit in these locations. Existing users and the environment must not be disadvantaged through this special transition process and this implementation issue needs further work.

Activities that only require low volumes and short term take of NAW are proposed to be exempt via a regulation from the requirement for an authorisation (new s101). These could include:

- Vehicle and plant wash down
- Infrastructure and temporary camp construction
- Water supplies for camps
- Well drilling.

In any process of identifying exemptions from authorisation it is important that identified activities are indeed low risk/low volume for the local area of their operation, as for the proposed watercourse designations. These low risk exemptions require further exploration with affected stakeholders.

5. Other proposed changes under the Bill

a. Amendment of the *River Improvement Trust Act 1940*

The Bill also makes amendments to the Act guiding River Improvement Trusts (RITs) aimed at streamlining existing provisions and reducing red tape. A significant change is the extension of trust powers to implement activities within the catchment and beyond the bed and banks of a watercourse, such as when addressing gully erosion. AgForce understands that this is initially aimed at proposals to manage erosion and water quality issues in South East Queensland catchments. The RIT work is required to focus on activities that directly benefit the health and resilience of rivers and could provide landholders with access to the additional skills and resources required to effectively address water quality issues.

AgForce is concerned about the potential future exercise of these catchment-wide powers across the state where they are used to apply onerous requirements on landholders, ranging from compulsory acquisition (Clause 36), power of entry (clause 37), applying mandatory enforceable improvement notices (clause 38) and binding voluntary agreements on land (clause 37).

We are of the strong view that voluntary approaches to catchment management and collaborative approaches with landholders are the most effective in ensuring long term catchment health. Indeed, the Minister's Introductory Speech stated that the amendments will '*allow trusts to work cooperatively with landholders and other catchment groups to plan for and implement activities beyond the bed and banks of a watercourse*' and '*working with landowners to implement best practice sediment management practices*'.

AgForce requests that where the Bill enables trusts to operate outside of the bed and banks of watercourses that the Bill also includes provisions that require that RITs only do so with the voluntary agreement of the landholders involved, or only in emergency circumstances where consent is not available. Further, that the compensation provision (Clause 11D) applies beyond crop damage and includes damage to other agricultural attributes such as pastures or agricultural infrastructure. Landholder hardship provisions in the case of cost recovery by the RIT should also be included if not provided for elsewhere.

b. Referral panels

AgForce supports the use of referral panels (new s241) to advise the government on processes such as water entitlement notices and operations manuals and varying moratorium matters. The power to decide on membership and functions should remain with the Chief Executive and be transparent, e.g. be skills and experience based.

c. Onus of proof under s812A and s812B

Currently, the Water Act requires the holder of a water entitlement (allocation, licence, assignment or permit) to prove they are not responsible for committing an offence where

unauthorised taking of water occurred, in the absence of contrary evidence. The Bill removes this reversal of the onus of proof to ensure that standard prosecution principles apply.

AgForce requested and strongly supports this amendment and the proposal that the state will now carry the burden of proof in determining responsibility for an offence. We do not believe that the current reverse onus of proof is justified as it is inconsistent with principles of natural justice.

d. Publishing public notices

The Bill (new s1009A) proposes greater flexibility in how public notices may be published. While supportive of broadening out the methods available to notify relevant parties, such as the use of electronic communication, it is vital that landholders continue to be notified in ways that are relevant to them. For example, it is not considered sufficient to simply upload notifications onto a Departmental website and so expect potentially-affected parties to continually review the website for changes or to go actively searching for that information. Given the specific needs and limitations in rural and remote areas, proactive communication approaches remain necessary and this could still entail timely newspaper publication in conjunction with other options.

Conclusion

AgForce supports a review of the Act and a reduction in the regulatory burden surrounding the management and allocation of water resources in Queensland. We support making further water resources available for economic development in a responsible and sustainable way where this does not reduce the certainty, security and reliability of current entitlements of primary producers or increases the risk of adverse environmental impacts.

If there are any questions relating to the contents of this submission please contact Dr Dale Miller [redacted]

Yours sincerely

[redacted]

Ian Burnett
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