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Date: 12<sup>th</sup> August 2011

## **Re: Water and Other Legislation Amendment Bill 2011**

Dear Mister Hansen,

Queensland Conservation Council (QCC) welcomes the opportunity to provide the following comments on the Water and Other Legislation Amendment Bill 2011.

### **1. Organisations making this submission**

Established in 1969, Queensland Conservation [QCC] is the state's peak environmental organisation that represents the interests of 70 member groups. In collaboration with its member's, QCC aims to protect Queensland's ecological heritage by providing leadership to improve environmental protection and natural resource management across the state.

### **2. Introduction**

Although we consider the 2011 WOLA Bill to be relatively benign from an environmental perspective, we are concerned about certain aspects of the Bill which we have commented on below. Whilst we have constrained our comments to specific matters, our lack of comments on other matters contained in the Bill should not be construed as support for these matters.

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### **3. Water Act 2000 amendments**

#### **3.1 Single Process for water resource planning**

As Water Resource Plans (WRP) and Resource Operation Plans (ROP) are the predominant legislative measures utilised to manage water for consumptive and environmental purposes, it is essential that stakeholders and the community are confident that water resource planning processes are transparent, open and equitable.

Whilst we understand the rationale for streamlining the existing WRP and ROP preparation processes, we are concerned that the reduced opportunities for public engagement in the proposed Single Process framework as compared to existing processes may lead to a perceived lack of transparency that could undermine community and stakeholder ownership in plans that are developed under the new framework.

As it crucial there is support for outcomes generated under the proposed Single Process framework, we wish to make the following recommendations that we believe will better instill stakeholder and community confidence in the new framework:

#### **a) Pre technical assessment**

To ensure that stage 1 technical assessments are well informed, a preliminary stage needs to be introduced into the process that incorporates:

- Peer review of the technical processes utilised to undertake hydrological, social, environmental, economic and cultural assessments
- Engagement with Peak Body Consultative Group to determine initial scope of associated existing and emerging issues
- Public notification of the commencement of the WRP/ROP review and replacement

#### **b) Pre planning report**

The proposed framework states that an Implementation Review report will be prepared, yet it is not identified whether this report will be an internal agency or public document.

In order to ensure transparency, we strongly recommend this report is readily available for public scrutiny from DERM's website and upon request.

We also recommend that Implementation Review Report must be endorsed by the Peak Body Consultative Group and advice and feedback provided by its members included in the report, which we believe will assist in building the broader communities confidence in the new framework.

**c) Public statement of reasons**

In order to ensure transparency, we strongly recommend that the Minister must be required to issue a public statement that details the reasons, processes and information utilised in making his/her decision to undertake either the standard or long process, which should be released following the first Ministerial decision point.

The Ministers public statement should also include electronic links to all relevant reports and studies that have been utilised in pre-planning and assessment processes in order to provide easy public access to this information.

**d) Peak Body Consultative Group (PBCG)**

As it will provide a crucial role during the initial stages of the proposed framework, it is essential that the Peak Body Consultative Group provides balanced feedback and advice in order for it to gain the confidence of the broader community and stakeholders.

To achieve this, we strongly recommended that membership of the PBCG must consist of equal representation from all sectors that have an interest in the management of the states water resources. Sectors that must be represented on the PBCG include the conservation sector, farmers, graziers, indigenous, tourism, water providers and local government.

To ensure that region perspective is duly considered, a main task of the PBCG members must be to consult with their regional constituents to enable local knowledge to be.....

As the states peak environmental Non-Government Organisation, it is essential that Queensland Conservation Council is represented on the PBCG.

**e) Recommended amendments to proposed Long Process**

From previous stakeholder consultations, we have been lead to believe that the Long Process under the proposed framework will closely resemble existing planning process – yet the flow diagram on page 17 of the WOLA Bill 2011 explanatory notes indicates that a number of process that are mandatory under existing arrangements will become optional under the new framework.

As plans required to undertake the proposed Long Process have been identified as having a range of complex existing or emerging issues, it is essential that robust, transparent and open processes are utilised in the review and replacement of these plans.

As such, we strongly recommend that processes currently considered as 'contingent legislative steps' within the Long Process section of the proposed framework should be mandatory – for example:

- Moratorium notice
- Statement of proposals
- Notice of intent
- Submissions and information sessions
- Establishment of Community Reference Panel

**Recommendation:**

The above suggestions are fully adopted

### **3.2 Authorised taking of water without entitlement**

Clause 9 of the Bill is intended to amend the Water Act 2000 to allow a person to interfere with overland flow without a water entitlement.

As overland flows are critical to maintaining floodplain ecosystems, depending on the scale, interference of overland flow can cause a range of ecological and hydrological impacts and also increase the risk of flooding where the interference of overland flows has concentrated floodwaters.

Consequently, we do not support the proposed amendment in its current format as we believe that allowing what amounts to be an unfettered right to interfere with overland flow is contrary to the intent and purpose of the Water Act 2000 – particularly as the potential ecological and hydrological consequences that could result from the interference of overland flow do not appear to have been adequately considered.

**Recommendation:**

Clause 9 of the Bill should be removed

### **3.3 Amendment to section 206 (applying for a water licence)**

The purpose of Clause 60 is to enable the Commonwealth Environmental Water Holder and the SEQ Water Grid Manager to be able to apply for and hold a water licence not attached to land. In considering this amendment, it is important to note that water allocations held by these two entities will be utilised for fundamentally different purposes.

For example, the Commonwealth Environmental Water Holder acquires and holds water entitlements with the objective of returning more water to the environment; while the role of the SEQ Water Grid Manager is to buy water from other State-owned statutory water bodies and hold South East Queensland's urban water entitlements.

While we support the proposed amendment being applied to the Commonwealth Environmental Water Holder due to the environmental benefits that will be provided, we do not support the amendment being applied to the SEQ Water Grid Manger due to the potential adverse environmental impacts that could occur from carrying out its explicit purpose of extracting water from bulk water assets - particularly in the Mary Valley where the amount of water for identified under its water resource plan is highly questionable and contentious.

**Recommendation:**

Clause 60 of the Bill should not be applied to the SEQ Water Grid Manager

**3.4 Amendment to section 814 of the *Water Act 2000***

Clause 89 of the Bill intends to remove the requirement of needing a permit under the Water Act to destroy vegetation, excavate or place fill in a watercourse, lake or spring if the activity is part of constructing self-assessable works under the Sustainable Planning Act.

As we consider the self-assessable codes under the Sustainable Planning Act are very narrow in their view and application, we do not support removing the requirement for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring under the Water Act as we believe it may lead to unforeseen environmental impacts – for example: impeding aquatic species passage and disturbing natural features such as riffle sequences in low flow periods, which are not adequately consider under the Sustainable Planning Regulation 2009 self-assessable development codes.

The advantage of requiring a Riverine Protection Permit for these works is that it ensures people fully consider the ecological consequences of what they are planning to do.

**Recommendation:**

Clause 89 of the Bill should be removed

### **3.5 Gulf WRP amendment**

Clause 104 of the Bill provides a water reserve to support indigenous economic development in Wild River areas of the Gulf WRP area.

Whilst we support the economic aspirations of indigenous communities, we strongly recommend that indigenous water users must be required to prepare and implement an accredited Land and Water Management Plan to ensure the use of water for economic development does not cause environmental degradation in Wild River areas.

**Recommendation:**

Indigenous communities conducting economic development activities in Wild River areas must be required to develop and implement an accredited Land and Water Management Plan

## **4. *Wild Rivers Act 2005* amendments**

### **4.1 Indigenous Reference Groups**

Queensland Conservation fully supports the establishment of indigenous reference groups to enhance consultation processes with indigenous communities about Wild River declarations.

### **4.2 Wild River Rangers**

Queensland Conservation fully supports the recognition of the Wild Rivers Ranger program in the *Wild Rivers Act 2005*.

## **5. *Cape York Heritage Act 2007* amendments**

Clause 3 of the Bill is intended to amend section 19 of the CPYHA 2007 to align property development plan requirement under this Act with similar requirements under the Wild Rivers Act 2005.

As the Gulf Water Resource Plan is also being amended to provide an additional water reserve to support indigenous economic development, we strongly recommend that the required Property Development Plan must incorporate a Land and Water Management plan as is required under the *Water Act 2000* to ensure that water used for indigenous economic development does not cause environmental degradation in Wild River areas.

**Recommendation:**

Property Development Plans required under the CPYHA 2007 must incorporate a Land and Water Management Plan as is required under the Water Act 2000

**6. Conclusion**

Please contact Nigel Parratt in our office or on 0407 962 652 should you require any further information or clarification regarding any aspect of this submission.

Regards,

A handwritten signature in black ink, appearing to be 'Toby', followed by a long horizontal line extending to the right.

Toby Hutcheon  
Executive Director  
Queensland Conservation (QCC)