

Infrastructure, Planning and Natural Resources Committee

From: SAVE HINCHINBROOK <hinchinbrookalliance@gmail.com>
Sent: Saturday, 9 January 2016 5:13 PM
To: Infrastructure, Planning and Natural Resources Committee
Subject: ASH Submission: "Water Legislation Amendment Bill 2015".
Attachments: ASH SUB - Water Legislation Amendment Bill Dec 2015.pdf; Corr QLD-ASH re WROLA and ESD.pdf

Alliance to Save Hinchinbrook Inc.

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TO

Research Director

Infrastructure, Planning and Natural Resources Committee

BY

Email: ipnrc@parliament.qld.gov.au

18 Dec 2015

We wish to state, as part of our submission on the "Water Legislation Amendment Bill 2015", that ASH fully supports the submission of the Environment Defenders Office of Queensland (EDO QLD), hence we will not present detailed material in our submission.

Please find attached our brief submission and a record of recent correspondence between ASH and the Water Reform Team.

Yours sincerely,

Margaret Moorhouse
Alliance to Save Hinchinbrook Inc



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Inc.**

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Research Director
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We wish to state, as part of our submission, that ASH fully supports the submission of the Environment Defenders Office of Queensland (EDO QLD), hence will not present detailed material here.

ASH has been involved in workshops and presentations related to this Bill. We have also had discussions with the Environment Defenders Office of Queensland (EDO QLD), and recent discussions and correspondence with the Water Reform Team (see attached).

We are pleased that some of the 2014 provisions have been changed but we are most concerned that other measures are still required if the Act is to properly protect one of our most precious and limited resources – natural water.

We were not pleased to discover that confusion and possible misleading meaning has arisen from the way the Department had worded the proposed introduction of ESD, leading to an incorrect understanding that ESD was to applied “*throughout the Act*”. We can guess that many submitters will mistakenly applaud the government for making ESD apply throughout the Act, as the wording suggests.

This possibility for wrong understanding must be taken into account when submissions are assessed.

We also asked the Department for the number of people who were potentially misinformed in the way that ASH was when we made an inquiry via the Department web site (no response so far to that inquiry). See the correspondence attached.

Yours sincerely

Margaret Moorhouse

Secretary/treasurer

Alliance to Save Hinchinbrook Inc.

BRIEF COMMENTS

PROPOSED MEASURES ASH SUPPORTS

1. ASH strongly supports the repeal of the water development option. This repeal protects a public good that will be increasingly in short supply. It also serves justice in the sense that the use of the public good (water) can be approved only after such proposal has been properly assessed.
2. ASH strongly supports the repeal of the power to deregulate water use. This repeal too protects a public good (water) and helps to minimise the risk of what amounts to theft and abuse of a scarce public resource.

IMPLEMENTATION FAILURES TO WHICH ASH STRONGLY OBJECTS

1. THE PROPOSED STATUTORY RIGHT TO WATER FOR MINES

ASH strongly urges the government to repeal the statutory right to water. ASH members are shocked that this provision is to remain. Every entity wanting to use water MUST be required to obtain a licence (as does the farming sector).

Water is a precious and limited resource and must not be simply given away. Further, a statutory right to *associated water* will mean that the community (including public interest groups) will not be able to raise their concerns in court by challenging water licence applications.

This failure to repeal this provision is also an affront to the Land Court, which recently recommended that the Alpha Coal Mine be approved ONLY if the mine obtains water licences assessed in accordance with the precautionary principle (PP) (more of the PP below).

See next page

2. THE PARTIAL INCLUSION OF ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) and the PRECAUTIONARY PRINCIPLE (PP)

ASH strongly urges the Government to instate the principles of ecologically sustainable development (ESD) as the overarching purpose of the entire Act.

ASH members are shocked and dismayed that these principles would not be applied to ALL decision-making processes in this Act (and in every piece of legislation relating to the natural environment and its resources).

We were well aware that the Premiers Department of the Bligh government had abandoned ESD. We were so advised formally by senior staff of the Premiers Department at the last formal Ministerial Environment Round Table (ERT) meeting of the Bligh Government. At the first ministerial ERT meeting of the Newman government we were again formally advised (from Premiers Department) that ESD and the PP were not being applied. We had expected the present government to do the right thing and bring the Water Act up to scratch on this principle – what possible reason could there be for not controlling the use of water in the most cautious and safe way? Future generations will be robbed of this limited resource unless it is strictly controlled at every level.

How can the Queensland Government so cavalierly treat agreements signed in good faith by an earlier government? Further, the Government has made a specific commitment (in the Reef 2050 Long-Term Sustainability Plan) to base all decisions affecting the Great Barrier Reef World Heritage Area on ESD and the PP. This obviously includes management of water resources in the GBR catchments.

Without ESD and the PP there are no real limitations to damage to the natural environment. ASH has had experience in court and we know that unless ESD is written fully into an Act as an underpinning purpose, it cannot be argued in court.

We urge the government to introduce a new amendment as soon as possible, to instate ESD and the PP in the purpose of the Act.

End submission

----- Forwarded message -----

From: **Water Reform** <WaterReform@dnrm.qld.gov.au>

Date: Thu, Dec 17, 2015 at 1:12 PM

Subject: RE: Query sent to Department of Natural Resources and Mines website - Changes to Legislation

To: SAVE HINCHINBROOK <hinchinbrookalliance@gmail.com>

Dear Margaret,

Thank you for your further enquiry. I understand that you have had a brief discussion with

about this matter in the interests of providing timely advice.

I would like to confirm that the Water Legislation Amendment Bill 2015 does replace the term “responsible and productive management” with the term “sustainable management” throughout the entire *Water Reform and Other Legislation Amendment Act 2014*, as it amends the *Water Act 2000*. However, please note that this term “responsible and productive management” relates to chapters 1 and 2 of the *Water Act 2000*.

In response to your query about the intended application of the principles of ecologically sustainable development in the new purpose of the *Water Act 2000* as proposed by the *Water Legislation Amendment Bill 2015*, I would like to explain below:

In the Bill, the principles of ecologically sustainable development are applied in the purpose as part of the meaning of “sustainable management”. So the principles of ecologically sustainable development are intended to apply wherever the Act provides for “sustainable management”. In particular, the proposed new purpose of the Water Act, provides for the sustainable management of Queensland’s water resources and quarry material by establishing a system for the planning, allocation and use of water, and the allocation of quarry material and riverine protection. The system for the planning, allocation and use of water, the allocation of quarry material and riverine protection is provided through chapters 1A (Water supply emergencies and restrictions) and chapter 2 (Management and allocation of water) of the Water Act.

A further explanation of the intent of the *Water Act 2000* purpose proposed by the Water Legislation Amendment Bill 2015 is available in the Explanatory Notes for the Bill (particularly on pages 9 through to 11), available at: <https://www.legislation.qld.gov.au/Bills/55PDF/2015/WaterLAB15E.pdf>

Please note that this application of the principles of ecologically sustainable development is not substantially different to its application under the current (unamended) *Water Act 2000*. Currently the principles of ecologically sustainable development are only referenced in, and only applicable to, the existing chapter 2. This is why our communications say that the principles are being explicitly reinstated into the purpose of the Act. We have taken your feedback on board and are in the process of making some adjustments to the text on [our website](#) to provide greater clarity about this particular part of the Bill.

We appreciate you raising this matter with us and we trust our advice clarifies the situation.

We apologise for the delay in our initial response. Your enquiry was received through a “Was this webpage useful” survey function on our webpage, which is directed through to the department’s

Web Services team. We encourage you to submit any future enquiries directly to the waterreform@dnrm.qld.gov.au enquiry email provided on the webpage. Our team monitors this email address regularly so we are well-positioned to respond to enquiries quickly.

Kind regards,

The Water Reform Team

Water Reform Team
Water Policy Division
Department of Natural Resources and Mines

Level 6 Mineral House, 41 George Street, Brisbane, Queensland 4000
PO Box 15216, City East, Queensland 4002
waterreform@dnrm.qld.gov.au

From: SAVE HINCHINBROOK [mailto:hinchinbrookalliance@gmail.com]
Sent: Wednesday, 16 December 2015 3:28 PM
To: Water Reform
Subject: Re: Query sent to Department of Natural Resources and Mines website - Changes to Legislation

Alliance to Save Hinchinbrook Inc

PO Box 2457, Townsville Q 4810
Mobile [0427 724 052](tel:0427724052)

TO

The Water Reform Team

Thank you for your reply to my web inquiry.

A paragraph in your reply (see below) suggests that the principles of ecologically sustainable development are proposed to be applied to the purpose for the whole Act:

The Water Legislation Amendment Bill 2015 proposes to amend the purpose of the Water Reform and Other Legislation Amendment Act 2014 to explicitly reinstate the principles of ecologically sustainable development and replacing the term “responsible and productive management” with “sustainable management” throughout the Act.

Given the delay in your reply, on behalf of our members I sought independent advice on the question of ecologically sustainable development (ESD) and the proposed amendments to the WROLA 2014. I also attended several relevant workshops in Brisbane.

The final phrase of your paragraph above (throughout the Act) gives the impression that ESD is to be applied to the whole Act.

Our independent advice is that ESD is to be applied ONLY to Chapter 2.

Given the somewhat ungrammatical structure of your paragraph (above), it would seem that your paragraph may be misleading.

We ask that you make a clear statement as to whether principles of ecologically sustainable development are proposed to be applied to the entire Act, and if not, to which parts of the Act they are proposed to be applied.

The answer should be plain and simple, so we expect to have your response tomorrow, noting that comments are due on Friday this week.

ASH usually advises its members on relevant legislative amendments, and we would prefer to have a clear statement from your department, rather than having to point out the seeming slippage in fact in your reply to my original inquiry.

Please advise us as to how many other entities have been sent your paragraph (above), and please advise us that you have corrected any wrong impression your department may have given as to the role of ecologically sustainable development in the proposed amendments: specifically, to which parts of the Act ESD is proposed to be applied.

Your sincerely

Margaret Moorhouse

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On Mon, Dec 14, 2015 at 12:51 PM, Water Reform <WaterReform@dnrm.qld.gov.au> wrote:

Thank you for your enquiry in respect to statements concerning ecologically sustainable development in the *Water Act 2000*.

The purpose of the *Water Reform and Other Legislation Amendment Act 2014* does not expressly include the principles of ecologically sustainable development.

The Water Legislation Amendment Bill 2015 proposes to amend the purpose of the *Water Reform and Other Legislation Amendment Act 2014* to explicitly reinstate the principles of ecologically sustainable development and replacing the term “responsible and productive management” with “sustainable management” throughout the Act.

The term “sustainable management” is proposed to incorporate the principles of ecologically sustainable development which integrates long-term and short-term economic, environmental, social and equitable considerations; addressing threats of serious or irreversible environmental damage to prevent environmental degradation; ensuring the health, diversity and productivity of the environment is maintained for future generations;

conservation of biological diversity and ecological integrity; the need to develop a strong growing and diversified economy; provision for broad community involvement on issues affecting them.

A link to the Water Legislation Amendment Bill 2015 is provided here

- <http://www.legislation.qld.gov.au/Bills/55PDF/2015/WaterLAB15.pdf>. as well as explanatory notes here

- <http://www.legislation.qld.gov.au/Bills/55PDF/2015/WaterLAB15E.pdf>

In particular, Clauses 10 to 15 are relevant to the proposed amendments to explicitly reinstate ecologically sustainable development to the purpose of the *Water Reform and Other Legislation Amendment Bill 2014*.

Regards

The Water Reform Team

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