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Submission No. 82
11.1.12

Submission to the Water Legislation Amendment Bill 2015

Dear Sir or Madam,
WWF-Australia wishes to provide the following comments and recommendations regarding issues associated with the Water Legislation Amendment Bill 2015, which is currently being examined by the Infrastructure, Planning and Natural Resources Committee.

We also wish to congratulate the Government on fulfilling its election commitments to revoke provisions in the *Water Reform and Other Legislation Amendment Act 2014* that removed Ecologically Sustainable Development Principles from the Water Act and introduced the Water Development Option (WDO) and Designated Watercourse mechanisms into the Water Act.

1.Summary of key recommendation

- Amend the WLAB to include provisions that enables Ecologically Sustainable Development Principles to the entire *Water Act 2000*
- Amend the WLAB to include provisions that revoke mechanisms in the WRaOLA Act 2014 which enable amendments to the Mineral Resources, Water and other Acts that give the proponents of mining development projects the statutory right to take and interfere with unlimited volumes of underground water
- Amend the WLAB to include provisions that introduce measures into the *Water Act 2000* which enables the Government to achieve its commitments under the Reef 2050 Long Term Sustainability Plan

2. Issues and recommendations

2.1 Failure to apply Ecologically Sustainable Development Principles to all sections of the *Water Act 2000*

While the WLAB reinstates Ecologically Sustainable Development principles into the *Water Act 2000* in accordance with the Government's election commitment, the way the Bill has been drafted only requires Ecological Sustainable Development Principles to be applied to the purpose of the Water Act associated with establishing a system for the '*planning, allocation and use of water*' and the '*allocation of quarry material and riverine protection*' [section 2 (1) (a)(i)(ii)].

As Ecologically Sustainable Development principles do not apply to the purposes of the Act associated with securing water supply and demand management for the southeast Queensland region and other designated regions [Section 2 (b)], managing impacts on underground water caused by the exercise of underground water rights by the resource sector [section 2 (c)] and the operation of water authorities [section 2 (d)], there is substantial risk that significant adverse impacts will potentially occur to Queensland's water resources as a consequence of failing to apply Ecological Sustainable Development principles to the entire Water Act.

Recommendation

The WLAB must be amended to include provisions that enables Ecologically Sustainable Development principles to be applied to the entire *Water Act 2000*. **(See Appendix 1. for proposed amendments to Clause 12 section 2 of the WLAB to enable ESD principles to applied to all sections of the Water Act)**

2.2 Advancing the purpose of the Act

Section 3 (1) of the current version of the Water Act *binds all persons, including the State, and, in so far as the legislative power of the State permits, the Commonwealth and the other States*. However under section 3 (2), this requirement does not apply to the operation of the *State Development and Public Works Organisation Act 1971* or the powers of the coordinator-general under the *State Development and Public Works Organisation Act 1971*.

Due to these exemptions, there is a significant risk that the purpose of the *Water Act 2000* will not be achieved by development proposals that are approved by the Coordinator-General under the *State Development and Public Works Organisation Act 1971*.

Recommendations:

To ensure the Acts purpose is advanced by all persons and entities, the WLAB must be amended to include provisions that omits section 3 (2) (a) (b) from the *Water Act 2000* and includes section 2A of Appendix 1 in the Act

2.3 Vague wording

Due to the use of vague wording, the WLAB does not provide certainty that Queensland's water resources will be managed sustainably under the *Water Act 2000*. To ensure the State's water resources are managed sustainably, we strongly recommend that the existing text under Clause 12 section 2 of the WLAB is replaced with the text provided in Appendix 1 of this document.

Recommendation:

Replace the existing text of Clause 12 section 2 of the WLAB with the text provided in Appendix 1 of this document

2.4 Absence of mechanisms to deliver ecologically sustainable outcomes

While the WLAB ensures that Queensland's water resources are planned, allocated and used in accordance with Ecologically Sustainable Development Principles, there is a significant risk that adverse impacts will occur to the State's water resources due to the removal of mechanism from the *Water Act 2000* that enabled ESD outcomes to be achieved by the former government.

Examples of the mechanism that have been removed from the *Water Act 2000* by the former government include:

- Removing provisions from the *Water Act 2000* that required proponents of mining development projects to obtain a licence under the Act to divert watercourses, which can cause adverse impacts to downstream water users and environmental values
- Removing provisions from the *Water Act 2000* requiring landholders to obtain a Riverine Protection Permit (RPP) to destroy riparian vegetation, which can cause adverse impacts to downstream water users and environmental values.
- Removing provisions from the *Water Act 2000* that required water entitlement holders to prepare and implement Land and Water Management Plans (LWMP) where there was a risk of land and water degradation occurring from using water to irrigate crops.

Recommendations:

- Amend the WLAB to include provisions that reinstates the requirement in the *Water Act 2000* for proponents of mining development projects to obtain a licence under the Act to divert watercourses
- Amend the WLAB to include provisions that reinstates the requirement in the *Water Act 2000* for landholders to obtain a Riverine Protection Permit (RPP) to destroy riparian vegetation
- Amend the WLAB to include provisions that reinstate the requirement in the *Water Act 2000* for water entitlement holders to prepare and implement Land and Water Management Plans

2.5 Giving proponents of mining development projects statutory rights to take and interfere with unlimited volumes of underground water

Under the *WRaOLA Act 2014*, the Mineral Resources, Water and other Acts will be amended to give the proponents of mining development projects statutory right to take and interfere with an unlimited volume of underground water.

Key issues associated with granting mine operators with statutory rights to underground water includes:

- Extinguishing Third Party Appeal Rights that are attached to the current requirement for mine operators to obtain a water licence under the Water Act 2000 to take and interfere with groundwater
- Removing the role of the Land Court as the independent arbiter that rules on Third Party appeals against water licences granted to miner operators
- Reducing the ability of the Government to sustainably manage Queensland's underground water resources
- The unknown effectiveness of the measures contained in Chapter 3 of the *Water Act 2000* to manage adverse impacts caused to underground water resources by petroleum and gas production activities
- Breaching the Governments election commitments to '*repeal the Newman Government water laws which will....allow for over allocation of Queensland's precious water resources*' and to restoring the community's statutory rights to object to mining development projects that were removed by the Newman Government

Recommendation:

Due to the above and other issues, WWF-Australia strongly recommends that provisions contained in the *WRaOLA Act 2014* that amend the Mineral Resources, Water and other Acts to give proponents of mining development projects statutory rights to underground water must be revoked.

1.6 Achieving Queensland Government's election commitments to protect and enhance the Great Barrier Reef World Heritage Area (GBRWHA)

Prior to the last election, the Government committed to "*act immediately to prevent the commencement of the Newman Government's water laws which will have a detrimental effect on the Great Barrier Reef catchment systems and allow for over allocation of Queensland's precious water resources*". In addition, the Reef 2050 Long Term Sustainability Plan (LTSP) contains the actions the Government committed to implement in order to avoid UNESCO placing the GBRWHA on the World Heritage In-Danger List.

Key actions the Queensland Government has committed to implement in the Reef 2050 LTSP includes:

- **WQT1:** Achieve a 50% reduction of anthropogenic end-of-catchment dissolved inorganic nitrogen loads in priority areas by 2018, increasing to achieve 80% reduction in nitrogen loads by 2025. Achieve a 20% reduction of anthropogenic end-of-catchment sediment loads in priority areas by 2018, increasing to achieve 50% sediment reduction by 2025
- **EHA8:** Implement a net benefit policy to restore ecosystem health, improve the condition of GBRWHA values and manage financial contributions to that recovery

- **EHA19:** Develop guidelines for assessing cumulative impacts (including climate change pressures) on Matters of National Environmental Significance (including ecological and heritage values) in the GBRWHA
- **EBT3:** Cumulative impacts caused to the GBRWHA by human activities are understood and measures to ensure a net environmental benefit approach for the GBRWHA are implemented
- **EHT4:** Key direct human-related activities are managed so that cumulative impacts are reduced and to achieve a net benefit for the GBRWHA

Implementing the above and other actions contained in the Reef 2050 LTSP will require a Whole-of-Government approach to be taken, which will necessitate that measures to deliver the Governments Reef 2050 LTSP commitments must be embedded in all relevant state legislation including the *Water Act 2000*.

Recommendation:

The WLAB must be amended to include provisions that introduce measures into the *Water Act 2000* that deliver and implement the Governments commitments contained in the Reef 2050 Long Term Sustainability Plan and in election policies. In particular the water quality consequences of water allocation and management decisions must be specifically assessed and mitigated.

Link: <http://www.environment.gov.au/system/files/resources/d98b3e53-146b-4b9c-a84a-2a22454b9a83/files/reef-2050-long-term-sustainability-plan.pdf>

3. Conclusion

WWF-Australia believes that the proposed amendments to the WLAB outlined above will significantly enhance the ability of the *Water Act 2000* to sustainably manage Queensland’s water resources. However, further amendments to the *Water Act 2000* are necessary to enable the Government to deliver its commitments contained in the Reef 2050 Long Term Sustainability Plan and to fully deliver on its election commitments.

In closing, WWF-Australia would appreciate the opportunity to appear before the Committee to discuss and provide further information about the matters we have raised in this submission.

Yours sincerely,

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 WWF-Australia

Appendix 1. Amendments to Cause 12 of the WLAB to enable the application of ESD principles to all sections of the *Water Act 2000*

2. Purposes of Act and their achievement

(1) The main purposes of this Act are to provide a framework that provides for the ecologically sustainable management of the following—

- (a) Queensland’s water resources and quarry material by establishing a system for—
 - (i) the planning, allocation and use of water; and
 - (ii) the allocation of quarry material and riverine protection;
- (b) the sustainable and secure water supply and demand management for the south-east Queensland region and other designated regions;
- (c) the impacts on underground water caused by the exercise of underground water rights by the resource sector, including mitigating and avoiding impacts;
- (d) the effective operation of water authorities.

(2) For the purposes of this Act: ***ecologically sustainable management*** is management that—

- (a) applies the principles of ecologically sustainable development; and
- (b) allows for the allocation and use of water resources and quarry material for the economic, physical and social wellbeing of the people of Queensland, within limits that can be sustained indefinitely; and
- (c) sustains or improves the health of ecosystems, water quality, water-dependent ecological processes and biological diversity associated with watercourses, lakes, springs, aquifers and other natural water systems, including, where practicable, reversing catchment degradation that has occurred; and
- (d) recognises the interests of Aboriginal people and Torres Strait Islanders and their cultural connection with water resources; and
- (e) enables water resources and quarry material to be obtained through fair, transparent and orderly processes to support the economic development of Queensland; and
- (f) builds confidence regarding the availability, security and value of water entitlements and other authorisations; and
- (g) promotes the ***efficient use of water*** through—
 - (i) the establishment and operation of water markets; or
 - (ii) the initial allocation of water; or
 - (iii) the regulation of water use if there is a risk of land or water quality and or marine degradation; or
 - (iv) increasing community understanding of the need to use and manage water in a sustainable way; and
- (h) facilitates and encourages the community to take an active part in planning for the management and allocation of water, including ensuring adequate consultation with all relevant stakeholders, including appropriate representatives of Aboriginal and Torres Strait Islander interests.
- (i) integrates, as far as practicable, the administration of this Act and other legislation dealing with natural resources.

(3) For subsection (2)(g), the *efficient use of water*—

(a) incorporates water demand management measures that achieve permanent and reliable reductions in the demand for water; and

(b) promotes water conservation measures and appropriate water quality objectives for intended use of water; and

(c) promotes water recycling, including, for example, water reuse within a particular enterprise to gain the maximum benefit from available supply; and

(d) considers the volume and quality of water required for particular circumstances, including releases to the environment from water storage infrastructure to ensure that flows and water quality required to support aquatic species, freshwater ecosystems, estuaries and marine receiving waters are maintained.

2A Advancing the Act's purpose

If, under the Act, a function or power is conferred on an entity, the entity must perform the function or exercise the power in a way that advances the Act's purpose.