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C/- Whitsunday Regional Council
PROSERPINE QLD 4800

16 December 2015

Mr. Jim Pearce MP
Member for Mirani
The Sarina Centre,
Central Street
SARINA QLD 4737

Dear Mr. Pearce


The State Council's Executive is aware of the Water Legislation Amendment Bill currently before parliament and now before the Infrastructure, Planning and Natural Resources Committee. As Chairperson of this committee the Executive would like to advise you of its concerns regarding the amendment to Section 10 (1)(a) & (b) of the River Improvement Trust Act 1940.

Section 10 of the RIT Act was amended in December 2014 to remove the requirement for trusts to obtain the approval of the Chief Executive for its annual program of works. There were further amendments to this section to streamline the process for trusts to carry out works provided such works complied with the provisions of the Act. In other words the amendments were designed to remove the bureaucracy and allow trusts to get on with the job.

A further amendment to Section 10 (3) provided 'the power of the trust to undertake works includes, but without limiting the ordinary meaning of that term, power, subject to the direction or approval of the chief executive, to construct, establish, carry out, manage, or control the works concerned.' There is also a requirement for trusts to submit a report each year to the Chief Executive outlining the works undertaken.

The new amendment to the Act now seeks to empower the Chief Executive to increase the amount of scrutiny of trusts by:

1. Directing a trust not to undertake or maintain works; and
2. Stating works the trusts must undertake or maintain etc; and
3. Remove from Section 10 (3) the Chief Executive's power to direct or approve works

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It is the view of the Executive that the first amendment will create real problems for trusts where work has already commenced or is finished. There is already provision in the Act that requires a trust to carry out works in accordance with the provisions of the Act. If works do not comply with the Act the trust is liable and required to make good or pay compensation where a landholder's property is damaged. Further more a trust could be liable for future compensation if such works cause future problems to properties down stream of the site of the works.

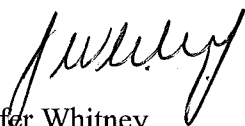
The second amendment gives the Chief Executive power to direct or approve works that a trust must do. The purpose of this amendment is to ensure trusts achieve the object of the Act. However there are already sufficient provisions in the Act that require a trust to achieve the object of the Act.

The third amendment is removed to increase the power of the Chief Executive to direct or approve works. This amendment ensures there is no conflict with the first two. Given the Executive does not agree with the first two amendments, because they are too prescriptive, it believes that the first two amendments should not proceed and no amendment be made to Section 10 (3).

The Executive is concerned about the impact of these amendments on trusts and the work they carry out. It would also like clarification of the intent of these amendments and their possible affect on trusts into the future.

Could you please place the Executive's concerns before your Committee so that it is aware of the possible ramifications of these amendments on the work of trusts into the future?

Yours faithfully



Cr Jennifer Whitney
Chairperson