Parliamentary Committees

Land, Water and Other Legislation Amendment Bill 2013

Report No. 20
Agriculture, Resources and Environment Committee
April 2013

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Acknowledgements

The committee thanks departmental officers, and the groups and individuals who provided submissions to the inquiry.

Contents

Abbreviations and definitions

ALA	Acquisition of Land Act
CYLC	Cape York Land Council
DEHP	Department of Environment and Heritage Protection
DNRM	Department of Natural Resources and Mines
GBRMPA	Great Barrier Reef Marine Park Authority
LWMP framework	Land and water management plan framework
NCA	Nature Conservation Act
QFF	Queensland Farmers' Federation
ROP	Resource operations plan
SEQ	South East Queensland
WRP	Water resource plan
WWF	World Wildlife Fund

Chair's foreword

This report presents the findings from the committee's inquiry into the Land, Water and Other Legislation Amendment Bill 2013 introduced on 5 March 2013 by Hon Andrew Cripps MP, Minister for Natural Resources and Mines.

I commend the report to the House.

Ian Rickuss MP
Chair

April 2013

Recommendations

1. Introduction

Role of the committee

The Agriculture, Resources and Environment Committee (the committee) is a portfolio committee established by a resolution of the Legislative Assembly on 18 May 2012. The committee's primary areas of responsibility are agriculture, fisheries and forestry, environment and heritage protection, and natural resources and mines.[1]

In its work on Bills referred to it by the Legislative Assembly, the committee is responsible for considering the policy to be given effect and the application of fundamental legislative principles.[2]

In relation to the policy aspects of Bills, the committee considers the policy intent, approaches taken by departments to consulting with stakeholders and the effectiveness of the consultation. The committee may also examine how departments propose to implement provisions in Bills that are enacted.

Fundamental legislative principles are defined in Section 4 of the *Legislative Standards Act 1992* as the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The referral

On 5 March 2013, Hon Andrew Cripps MP, Minister for Natural Resources and Mines, introduced the Land, Water and Other Legislation Amendment Bill 2013. The Legislative Assembly referred the Bill to the Agriculture, Resources and Environment Committee for examination. The committee was given until 23 April 2013 to table its report to the House, in accordance with SO 136(1).

The committee's processes

In its examination of the Bill, the committee:

- identified and consulted with likely stakeholders on the Bill
- sought advice from the Department of Natural Resources and Mines
- invited public submissions on the Bill
- convened a public briefing on 20 March 2013 by departmental officers
- convened a public hearing and further departmental briefing on 12 April 2013, and
- sought expert advice on possible fundamental legislative principle issues with the Bill.

A list of submitters is at **Appendix A**.

Briefing officers and hearing witnesses are listed at **Appendix B**.

[1] Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland as at 1 January 2013.
[2] Section 93 of the *Parliament of Queensland Act 2001*.

2. Examination of the Land, Water and Other Legislation Amendment Bill 2013

Policy objectives

As described by the explanatory notes, the Land, Water and Other Legislation Bill 2013 has seven major policy objectives which support and implement the Government's commitments:

- Progress the recommendations of the Queensland Floods Commission of Inquiry that relate to levees
- Reduce red tape and regulation
- Facilitate the conversion of water authorities to two tier co-operative structures
- Clarify the safety regime that applies to pipelines carrying produced water. Stakeholders raised concerns about safety requirements during the committee's public hearing held on 10 August 2012 for its examination of the Mines Legislation (Streamlining) Amendment Bill 2012
- Clarify an amendment made to the Regional Vegetation Management Code in 2009
- Extend timelines for the interim assessment process for water and sewerage issues for South-East Queensland distributor-retailers and their owner councils until 1 March 2014, and
- Implement a number of other miscellaneous amendments to address operational issues necessary to provide for continued effective implementation of a range of legislation.

The Bill is a substantial document with 21 parts comprising 352 clauses and a schedule of minor and consequential amendments. A number of the parts contain amendments to Acts commencing both on assent and by proclamation.

Briefly, the Bill:

- amends the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* to streamline a number of transfer related issues on Aboriginal and Torres Strait Islander lands
- amends the *Acquisition of Land Act 1967* to streamline acquisitions where the parties are in agreement or where there are no objections by removing the need for consideration by the Governor in Council
- amends the *Cape York Peninsula Heritage Act 2007* to amend a map of the Cape York Peninsula Region to include the Eastern Kuku Yalanji national parks
- amends the *Foreign Ownership of Land Register Act 1988* to remove the notification requirement for interests that do not represent a long term possession or control of the land, such as profits a prendre, covenants, plantation licences and carbon abatement interests, consistent with other interests that are already excluded such as mortgages and resource tenures
- amends the *Land Act 1994* to change all application processes where third party consents are critical to the approval of the dealings. Other key amendments include providing cost savings and security of tenure relating to the implementation of the State Rural Leasehold Land Strategy, and repealing the Future Conservation Area provisions
- amends the *Land Title Act 1994* to allow for the creation of statutory easements in small lot developments, providing significant savings in the development of those small lots. Other technical amendments include providing improved clarity, correct minor inconsistencies, allow for improved efficiency and greater flexibility in titles registry practices
- amends the *Land Valuation Act 2010* to improve flexibility in what sales can be included in market survey reports, modernise service address to allow an owner to provide an electronic

service address, provide immunity from civil liability for persons appointed to chair objection conferences and progress other minor changes

- amends the *Petroleum and Gas (Production and Safety) Act 2004* to address concerns regarding two Acts applying to pipelines carrying produced water
- amends the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004* to, among other things, provide that petroleum wells can be converted to water observation bores or water supply bores by a petroleum tenure holder.
- amends the *River Improvement Trust Act 1940* to streamline a number of governance and administration requirements for River Improvement Trusts
- implements recommendations from the Queensland Floods Commission of Inquiry's Final Report relating to levees
- amends the *Water Act 2000* to authorise the take of or interference with water for low risk activities, removes the requirement for a resource activity tenure holder to hold a water licence for diverting water on a tenure, extending all new and existing water licences until 30 June 2111, streamline the process for water licence transfers, removes declared catchment areas, provides the Minister with greater flexibility to manage the expiry and prioritise the replacement of water resource plans, and facilitates two-tier co-operative structures.
- further amends the *Water Act 2000* to remove the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring, removes the requirement for irrigators to prepare land and water management plans, provides the chief executive with flexibility when dealing with surrendered and forfeited interim water allocations
- amends the *Water Supply (Safety and Reliability) Act 2008* to facilitate two-tier co-operative structures, define dual reticulation, and clarify transitional provisions
- amends the *Vegetation Management Act 1999* in accordance with recent advice that decisions made under the Act relating to clearing associated with watercourses shown on the 'Vegetation Management Watercourse Map' could be invalidated, and
- amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* and the Sustainable Planning Act 2009 to provide for the extension of due dates and sunset clauses.

A detailed summary of the provisions of the Bill prepared by the Department of Natural Resources and Mines (DNRM) is available from the committee's website at http://www.parliament.qld.gov.au/work-of-committees/committees/AREC/inquiries/current-inquiries/11-LandWaterOLA.

Consultation

The committee sought advice from DNRM on consultations conducted by the department and other departments on the provisions of the Bill. The advice provided by DNRM on consultations is available from the committee's webpages for the inquiry.[3]

Consultation with stakeholders

According to DNRM, the draft Bill was not widely disseminated for consultation, and there were no major deviations of the policy intent of the amendments contained in the Bill. Departments

[3] 'Briefing Paper – Department of Natural Resources and Mines – Information Brief', Briefing Paper – Department of Natural Resources and Mines – Consultation Brief', and 'Briefing Paper – Department of Natural Resources and Mines – Consultation Schedule' are available from the committee's web pages at http://www.parliament.qld.gov.au/work-of-committees/committees/AREC/inquiries/current-inquiries/11-LandWaterOLA.

consulted with key stakeholders (government and non-government) on the proposed policy amendments and/or the Bill for amendments to the following Acts:

- *Aboriginal Land Act 1991*
- *Acquisition of Land Act 1967*
- *Cape York Peninsula Heritage Act 2007*
- *Land Act 1994*
- *Land Valuation Act 2010*
- *Land Title Act 1994*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Petroleum Act 1923*
- *River Improvement Act 1940*
- *South East Queensland Water (Distribution and Retail Restructure) Act 2009*
- *Water Act 2000*
- *Water Supply (Safety and Reliability) Act 2008*.

In its advice, DNRM further explained that a number of amendments contained in the Bill are minor and technical in nature and are premised on reducing red tape and streamlining processes to benefit stakeholders. For this reason, consultation was not undertaken (and not addressed in the department's brief to the committee) for amendments proposed in the Bill to the following Acts:

- *City of Brisbane Act 2012*
- *Foreign Ownership of Land Register Act 1988*
- *Local Government Act 2009*
- *Sustainable Planning Act 2009*
- *Torres Strait Islander Land Act 1991*, and
- *Vegetation Management Act 1999.*

Public consultation

According to the DNRM consultation advice, no public consultation was conducted by departments on the Bill.

Comment

While there has been some 'targeted' consultation by departments with the key stakeholders on the policy behind the provisions in the Bill, the committee notes that stakeholders were not able to consider and comment on the draft provisions before the Bill was finalised by the department of Natural Resources and Mines and introduced by the Minister.

Removal of provisions relating to Future Conservation Areas

Clause 68 of the Bill amends sections 159(2 and (3) of the *Land Act 1994* by removing:

- provisions relating to future conservation areas on state rural leasehold land, and
- other provisions designed to achieve closer settlement of agricultural areas.

Further, Clause 86 of the Bill repeals sections 198A and 198B relating to future conservation areas on state rural leasehold land.

Comments by submitters

In their submission to the committee the **World Wildlife Fund-Australia** (WWF) expressed concern about the removal of these provisions.

The WWF submitted:

> *It is a fundamental purpose of the Land Act to determine highest and best use of state land. In some cases this will be pastoral production, in others nature conservation. It is critical that the Nature Conservation Act administering agency have a formal role in helping the Chief Executive for the Land Act decide on section 159 factors. Removal of that role as proposed by the pending amendments undermines the purposes of the Land Act.*[4]

The WWF also raised the issue at the committee's public hearing:

> *Removing it, sorry, will now mean that the government, in order to expand the protected area estate, will have to stand in the marketplace in order to expand the protected area. So removing that provision I suppose removes the ability for the government to forewarn property owners or leaseholders that have areas of the state that have got very high biodiversity value. So it really doesn't make any sense to us what the benefit is in removing that provision. Basically all it does is just says to that property owner at some point in the future, whatever that time frame is, your property will be required.*[5]

In their submission, the **Great Barrier Reef Marine Park Authority** (GBRMPA) also asked that the provisions be retained.

The GBRMPA submitted:

> *That the Future Conservation Area provision (which allows the reservation of rural leasehold land and its acquisition in the future for the protected area estate at the time the lease is renewed) be retained as a tool to assist the Queensland Government to protect ecosystem functions that may be critical for the health of the Great Barrier Reef.*[6]

However, in their submission **Agforce Queensland** supported the removal of the provisions which they advised had caused anxiety and uncertainty for its members.

Agforce submitted:

> *The Future Conservation Areas (FCA) policy implemented in 2008 has created enormous angst amongst lessees by providing a power to allow the environment department to not renew leases on some of the best cared for areas of leasehold estate. AgForce has always maintained that properties that are identified for future conservation purposes should be paid for by the government on the open market and so supports this move to provide more certainty for lessees.*[7]

The committee asked the department to respond to the concerns raised in the submissions concerning the removal of the future conservation area provisions. The department advised that the removal of the provisions will not affect the ability to resume conservation areas as there are other measures to achieve this outcome.

DNRM Advice

> *The administrative arrangement which will be in place still allows the Department of Environment and Heritage Protection to assess conservation values on rural leasehold land at any time during the term of a lease (rather than at lease renewal) and to negotiate a purchase price with the lessee if a decision is made to buy all or part of the lease land for conservation purposes.*

[4] World Wildlife Fund, 2013, *Submission No. 14*, p.3.
[5] Parratt, K.2013, *Draft Public Hearing Transcript*, 12 April 2013, p.11.
[6] Great Barrier Reef Marine Park Authority, 2013, *Submission No.13*, p.1.
[7] Agforce, 2013, *Submission No.18*, p.7.

> *In addition, land management agreements under the Land Act 1994 remain as a tool to assist with the sustainable management of rural leasehold land, contributing towards the protection of ecosystem functions that may be critical for the health of the Great Barrier Reef.*[8]

Committee Comment

The committee notes the concerns raised by WWF and the GBRMPA about the proposed removal of the future conservation area provisions of the *Land Act 1994.* The committee is satisfied however, based on advice provided by DNRM, that the removal of these provisions will not prevent the Department of Environment and Heritage Protection from assessing the conservation values of rural leasehold land and, if warranted, from taking steps to purchase that land for conservation purposes.

The committee also notes that land management agreements will continue to be a tool for the sustainable management of leasehold lands.

Removal of Land Trust Members

The Bill amends the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* by way of clause 10-19 (inclusive) to provide land trusts with the power to appoint, remove or suspend members of the land trust.[9] Both Acts provide that land transferred is held in trust by a land holding entity which can be an existing land trust.

The proposed amendments are designed to deal with situations where the proper working of a trust has been affected by a trust member. At present, a trust must adopt a rule to remove, suspend or appoint members. To adopt the rule 75 per cent of members must agree however circumstances have arisen where a trust member to be removed or suspended works against the motion. The Bill will replace these provisions with default rules for appointment, removal or suspension, by the land trust, of members of the land trust.

At clause 12 the Bill gives the Minister the power to suspend or remove a member. Where a land trust does not have rules regarding same, they must request that the Minister remove or suspend a member. The Bill will amend the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* so that if the Minister forms a view that the actions of a member of the land trust are hindering the proper operation of the land trust and the Minister is satisfied that grounds exist for removing or suspending the member, this will be a sufficient basis to remove members.

Comments by submitters

In their submission to the committee the **Cape York Land Council** (CYLC) expressed concern in relation to proposed amendments to *Aboriginal Land Act 1991* the *Torres Strait Islander Land Act 1991* giving the Minister the power to remove or suspend a land trust member. The CYCL submitted:

> *However, CYLC has concerns about the proposed amendment to allow the Minister, if the Minister forms a view that the actions of a member of the land trust is hindering the proper operation of the land trust and the Minister is satisfied that grounds exist for removing or suspending the member, to remove a member. The amendments to give the land trust the power to take action in appropriate circumstances should be adequate for appropriate action to be taken, without the need for ministerial intervention into the operation of a land trust.*[10]

The committee sought comment from the department in relation to the concern raised.

[8] Department of Natural Resources and Mines, *Response to submissions*, p.12.
[9] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, p.6.
[10] Cape York Land Council, 2013, *Submission No.8*, p.2.

DNRM Advice

Firstly, the legislation already provides for the Minister to appoint, suspend or remove land trust members. Secondly, the amendments make it easier for land trusts to appoint, suspend, or if necessary, remove members by providing them with the powers to do so, thus avoiding the need for each and every land trust to adopt such rules. Thirdly, as pointed out in CYLC's submission, the proposed new powers for land trusts to appoint, suspend or remove members should be adequate and negate the need for Ministerial intervention. However, there have been circumstances where a land trust has not been able to make decisions – for example where they cannot form a quorum.

In this situation the Minister would be able to appoint new members to the land trust so it can once again operate on its own.

The intent of the new provisions is that the land trust will manage its own affairs with regard to appointments, suspensions and, if necessary, the removal of a member.

There are a range of safe guards built into the legislation, such as:

- *the provision of a show cause notice – which detail the action proposed to be taken and provide for the person to respond;*
- *an information notice, detailing the decision taken, the reason for it and that the person has 28 days to appeal the decision to the Land Court.*

Further, immediate suspensions are time limited and if no further action is taken the immediate suspension is lifted after 60 days.[11]

Committee Comment

The committee is satisfied by the advice provided by DNRM in relation to the concerns raised by the CYLC regarding land trusts and in particular the proposed powers given to the Minister to suspend or remove members of a trust in appropriate circumstances.

Pipelines carrying produced water

In the committee's report in relation to the Mines Legislation (Streamlining) Amendment Bill 2012, the committee recommended that the Bill be amended to provide that the safety requirements of the *Petroleum and Gas (Production and Safety Act) 2004* be the safety regime that applies to pipelines for the transport of produced water.[12]

The amendments made by the Mines Legislation (Streamlining) Amendment Bill 2012 excluded pipelines carrying produced water, including coal seam gas water, from the definition of 'operating plant'.[13] The result has been that pipelines carrying produced water are not captured under section 670(2) of the *Petroleum and Gas (Production and Safety) Act 2004* and are subject to the *Work Health and Safety Act 2011*. This overlap of safety regimes has unnecessarily complicated matters for CSG companies because untreated CSG water pipelines are laid in the same trench as gas pipelines (operating plant under the *Petroleum and Gas (Production and Safety) Act 2004*) and both are typically constructed out of the same material.[14]

[11] Department of Natural Resources and Mines, *Response to submissions*, p.6.
[12] Agriculture Resources and Environment Committee, Mining Streamlining Amendment Bill 2012, Committee Report No.7, Recommendation no.3, p.7.
[13] See s670(2)(d) of the *Petroleum and Gas (Production and Safety) Act 2004.*
[14] Explanatory Notes, Land, Water Other Legislation Amendment Bill 2013, p.29.

The Bill addresses the committee's recommendation at Clause 176 by amending s670 of the *Petroleum and Gas (Production and Safety) Act 2004*) to allow for pipelines carrying produced water (without petroleum) to be included in the definition of operating plant.

Comments by submitters

In their submission to the committee, **Origin Energy** supported the proposed amendment.

Origin submitted:

> *Origin also supports the removal of pipelines carrying produced water from the definition of operating plant which unnecessarily duplicated the health and safety requirements of gas pipelines. We also support the amendments to remove the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users. This now streamlines the process for the use of water for a variety of beneficial uses.*[15]

The department provided the following clarification to Origin's submission.

DNRM Advice:

> *Regarding Origin's comments on produced water pipelines, the Department wishes to clarify that the amendment does not remove all pipelines carrying produced water from the definition of operating plant.*
>
> *Rather, the amendment seeks to make clear that only those pipelines transporting produced water without any petroleum are excluded.*[16]

Committee Comment

The committee is satisfied by the advice provided by DNRM and acknowledges the department for addressing the recommendation made by the committee in its report on the Mines Legislation Streamlining Bill 2012.

Water Licences

Extension of term for Water Licences

Section 213(1)(a) of the *Water Act 2000* requires that each water licence granted be given a specified expiry date. It is usually the case that most water licences are granted for a period of ten years, after which time, the holder must apply for the licence to be renewed. This renewal process was designed to provide an opportunity to implement any changes to natural resource management policy that may have occurred during the licence period.[17]

However, water resource plans (WRPs) and resource operations plans (ROPs) currently cover over 90per cent of the State and are the principal water planning mechanism for ensuring the sustainable management and allocation of water in Queensland. As a result, the ten year expiry and renewal cycle for water licences is no longer required to implement natural resource management policy aimed at the sustainable management and allocation of water.

Clause 261 of the Bill amends section 213 of the *Water Act 2000* by removing the requirement to apply for a water licence to be renewed and will extend all current water licences to 30 June 2111 and all new water licences will be granted until that date (i.e. 99 years) unless otherwise stated by a WRP or ROP. The amendment is designed to reduce the regulatory burden on the farming sector. However, water licences would still be subject to the management strategies in WRPs and ROPs.

[15] Origin, 2013, *Submission No.12*, p.1.
[16] Department of Natural Resources and Mines, *Response to submissions*, pp.17-18.
[17] Explanatory Notes, Land Water and Other Legislation Amendment Bill 2013, p.23.

Comments by submitters

At the committee's public hearing **SEQ Catchments** supported the extended water licence period particularly as a means of reducing regulatory burdens.

SEQ Catchments advised the committee:

> *We do not actually have any concerns in relation to that. We did some background research into this, and my colleague here, Paul McDonald, has spent many years working in the department, which has had a number of names over a fair period of time. We were not aware of any circumstance where the renewal of a water licence was refused. It seems to me that there is a lot of paperwork and administration associated with the adjustments to the renewal of water licences. As somebody who actually owns a water licence, I have been through that for no particular purpose. If there was a record of water licences being refused or those sorts of things, we would then think that perhaps that would not be an issue. But just looking at it on the surface of it, we do not see it as being a particular problem.*[18]

The increase in the extension term for water licences was also support by the **Queensland Farmers' Federation** (QFF).

The QFF advised the committee:

> *I would like to add to it because I realise that the submissions aren't in favour of it from the conservation side. We see it quite simply that under the provisions of the National Water Agreement, the water allocations—which are tradable, these aren't the licences—are in perpetuity based on a defined share of the resource. We just see this as rolling that provision over to in situ licences which apply on specific land and that under the water planning process the conditions that are placed on those licences are part of the water plans and will be reviewed with the water plans. We cannot see that there is any detriment to the management of those entitlements because of a longer term right being granted. It is just a simplification of the administrative process yet the management of it will continue under the water resource plans into the future and those water resource plans are now quite significant—95 per cent, 98 per cent of the state. There are still smaller catchments to be done but we don't quite see it as difficult.*[19]

However, in their submission to the committee the **Great Barrier Reef Marine Park Authority** (GBRMPA) and **Healthy Waterways** expressed concern that the removal of the shorter time frame would not allow for an appropriate review if there are changes in water resources.

Healthy Waterways submitted:

> *The proposal to extend the term of water licences until 30 June 2111 provides a false sense of security to landowners and anyone who has extractive water licenses. This is because it will limit the government's ability to protect water resources from over extraction, if conditions change over the next 99 years. Extending extractive licences where very little is understood about the ability of the water resource to continue to meet demand is likely to cause unnecessary social and financial hardship on communities if water resources are unable to meet licensee expectations in the future. If climate variability or other changes to water availability reduce the water resource, this amendment will limit the community's ability to prioritise water use during dry periods, by prioritising individual licence holder's requirements over community values. There is also the additional issue that during the last drought significant bed and bank disturbance was caused, by landowners attempting to access limited water supplies. It is important that if any change occurs to water licences that this is linked to a new condition that requires licensee's to mitigate any disturbance caused*

[18] Warner, S. 2013, *Draft Public Hearing Transcript*, 12 April 2013, p.4.
[19] Johnson, I. 2013, *Draft Public Hearing Transcript*, 12 April 2013, p.22.

by the extractive equipment so as to prevent an increase in risk to downstream users, including downstream drinking water storages.[20]

This view was shared by the GBRMPA which submitted:

Proposed amendments to extend the life of current water licences from 10 years to 100 years means that the strategic review process will be lost, possibly leading to over allocation and a loss of environmental flows (particularly under El Nino conditions). The shorter licence period was originally in place to enable review of the wider water management implications of the licence.[21]

Removing the requirement for a water licence for associated water

Clause 169 of the Bill amends section 185 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove restrictions on the use of associated water by a petroleum tenure holder.

Associated water is defined in the *Petroleum and Gas (Production and Safety) Act 2004* as underground water that is taken or interfered with during the course of, or as a result of, carrying out an activity for a petroleum tenure. It is essentially 'by product' water of petroleum activities.

At present a petroleum tenure holder may provide associated water to a landholder whose land overlaps the petroleum tenure without further authorisation under the *Water Act 2000*. However, a water licence is required if the water is provided to another landholder whose property does not overlap the tenure. Petroleum industry stakeholders have raised this requirement as an unnecessary regulatory burden.[22]

The Bill seeks to address this issue by removing the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users.

Comments by submitters

In their submission to the committee the **Queensland Farmers' Federation** supported the amendment as it would reduce regulatory burden, however they also recommended that a framework be considered in relation to water derived from Coal Seam Gas (CSG) activities.

The QFF submitted:

Removal of the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users will reduce regulatory burden for CSG development. However, it is important that the 'evolution of the adaptive management framework' for CSG activities deals with issues that may arise for the management of CSG water as a resource and not just as a 'by product' of petroleum activities.

QFF's submission to the Department of Environment and Heritage Protection on the draft Coal Seam Gas Water Management Policy late last year drew attention to the need for planning and management of the transfer of CSG water for reinjection and substitution schemes. QFF was concerned that these issues needed to be carefully investigated by Government agencies with adequate engagement of CSG companies, agriculture industries and other stakeholders.

QFF is particularly concerned about how possible impacts CSG operations may have on the Condamine aquifers can be managed without State Government intervention. For example, options to inject treated coal seam gas water and or substitute it for existing water entitlements to the aquifer may have to be considered. A water licencing process would at

[20] Healthy Waterways, 2013, *Submission No.16*, p.3.
[21] Great Barrier Reef Marine Park Authority, 2013, *Submission No.13*, p 1-2.
[22] Explanatory Notes, Land Water and Other Legislation Amendment Bill 2013, p.23.

least provide a means of addressing how an injection/substitution process could be managed to address potential impacts on the aquifer.

Special regulatory measures may now be required if investigations show that an injection/substitution scheme is the best way to proceed.[23]

The committee asked to the department to respond to concerns raised by the QFF.

DNRM advice

QFF's concerns with the Government's adaptive management approach to CSG are noted.

However, the legislative amendments in the Bill have been developed to meet the Government's commitment to reduce red tape on business and the community.

If investigations demonstrate an injection/substitution scheme is proven to be the best way to proceed, the most appropriate regulatory measures, if required will be considered.[24]

Committee Comment

The committee is satisfied that the proposed extension of water licence terms to simplify the administration of licences will reduce regulatory burdens for licensees and for the department.

The committee is also satisfied that the extension of water licence terms will not constrain the department from properly managing licensees and responding to breaches of licence conditions.

Levees

From its investigations of the Queensland floods of 2010 and 2011, the Queensland Floods Commission of Inquiry in its Final Report on 16 March 2012 made 177 recommendations, including five recommendations relating to the regulation of levees. The Government has committed to implementing all 123 of the 177 recommendations that relate to the State, including all five recommendations pertaining to levees.

The Bill includes amendments to the *Water Act 2000* to provide a definition of a levee, identifying that a development permit under the *Sustainable Planning Act 2009* will be required (to construct a new levee or modify an existing levee) where the development is assessable development under the *Sustainable Planning Act 2009*, and a power to prescribe categories of levees based on risk assessment criteria. The creation of different categories of levees will enable different levels of assessment under the Sustainable Planning Regulation 2009.[25]

Comments by submitters

SEQ Catchments support the expansion of the provisions in the Bill to existing levees where it can be demonstrated that they result in negative impacts on, or direct threats to infrastructure, public safety and health, and water quality.[26]

The **Queensland Farmers' Federation (QFF)** submitted that:

…in response to consultation conducted in regard to the regulation of levees QFF submitted that it was important to focus on regulating only those artificial embankments which would be built specifically to exclude, control or regulate the flow of floodwater. QFF requested that irrigation infrastructure required to store and distribute water should not be captured in the

[23] Queensland Farmers' Federation, 2013, *Submission No. 11*, p.3.
[24] Department of Natural Resources and Mines, *Response to submissions*, p.21.
[25] Department of Natural Resources and Mines, *Summary of the Land, Water and Other Legislation Amendment Bill 2013*, p.25.
[26] SEQ Catchments, 2013, *Submission No. 6*, p.7.

definition of a levee. In particular, some irrigation infrastructure (such as ring tanks) is already regulated under other legislation or regulation. It was also noted that irrigation farming activities should also be specifically excluded. QFF supports the proposed definition of levees as the most effective means of implementing the findings of the Queensland Floods Commission of Inquiry. The proposed risk based approach should define level of assessments appropriate to the scale and nature of development proposals[27].

Agforce Queensland submitted that:

…the Bill amends the Water Act 2000 towards developing a consistent framework to regulate the construction of new levees and the modification of existing levees. This is intended (s967) for the purpose of minimising the adverse impacts these levees could have on overland flow water, the catchment, and landholders. AgForce are supportive of moves to manage impacts of future levee installation on landholders and other stakeholders within catchments. We would like to highlight that these amendments will not address the historical issues surrounding suspected impacts from existing, legally-installed levees, such as may occur in the lower Balonne floodplain. We would not advocate a retrospective application that would disadvantage a person who legally constructed a levee in accordance with the law as it stood at the time of construction. However, we would request that the Government look to examine these historical issues in more detail, such as through hydrological studies in areas where impacts are suspected to occur, and seek to facilitate a resolution to these issues. Outlined in the explanatory notes, Provision 972J only relates to levees constructed or modified after the commencement of this Bill and so is not expected to apply to these existing levees.
Section 306 (2) outlines a definition of levee as an artificial embankment or wall which excludes, controls or regulates the movement of overland flow water. AgForce welcomes the exclusion of standard agricultural activities (cultivation, clearing, crop or pasture establishment, laser levelling etc.) and irrigation infrastructure (including storages and distribution) from this definition of levee, given that these standard activities undertaken by landholders in the management of their property will have only a minimal impact on water flows. AgForce would recommend that there is an appropriate stakeholder consultation process in the development of the supporting regulations and the codes and additional criteria for levee assessment (s 967). Enabling different categories of levees is supported in order to ensure proportionate levels of assessment can be applied based on appropriate risk assessments (s 969)[28]*..*

The **Queensland Resources Council** sought assurances that the amendments will not apply to dams or other flood mitigation measures relating to resources operations. The QRC also commented that the creation of different categories of levees will enable different levels of assessment under the Sustainable Planning Regulation 2009.[29]

Queensland Conservation submitted that applications to construct levees must be assessed against a broad range of social, economic and environmental criteria.[30]

Healthy Waterways warned of the potential adverse impacts on water flows and recommended that the amendment include that a permit to construct levees can only be granted after the results of an assessment of the social, economic and environmental impacts caused by the levee are considered.[31]

[27] Queensland Farmers' Federation, 2013, *Submission No. 11*, p.2.
[28] Agforce Queensland, 2013, *Submission p.18*, p1.
[29] Queensland Resources Council,2013, *Submission No. 4*, p.2.
[30] Queensland Conservation, 2013, *Submission No.3*, p.2.

Advice from DNRM

In response to the QFF submission, DNRM advised:

> *The amendments in the Bill have taken note of QFF's submission. The definition of 'levee' being inserted by clause 306 of the Bill does operate to exclude irrigation infrastructure other than 'levee related infrastructure' which includes irrigation infrastructure connected with:*
>
> - *the construction of or modification of a levee; or*
> - *used in the operation of the levee to prevent or reduce the flow of overland flow water onto or from land.*
>
> *The definition of 'levee' also excludes structures regulated under another Act including a ring tank regulated under the Water Supply (Safety and Reliability) Act 2008.*[32]

In response to the Agforce submission, DNRM advised:

> *…the historical issues surrounding the suspected impacts from existing, legally-installed levees are not addressed by this Bill and any dealing with those issues is a matter of government policy.*
>
> *In relation to the development of the supporting regulations, the codes and additional criteria for levee assessment, a regulatory impact statement will be released for public consultation. Major stakeholders, such as AgForce will also be consulted on the proposed amendments.*[33]

In response to the comments by QRC, DNRM advised:

> *The definition of 'levee', in clause 306, at paragraph 3(b), excludes 'a structure regulated under another Act….'. This paragraph will exempt resource operations which are subject to regulation under other legislation such as the Environmental Protection Act 1994 as these operations are regulated as an environmentally relevant activity for which an environmental impact statement is required.*
>
> *The definition of levee also excludes 'an embankment or other structure constructed for long-term storage of water under the Water Supply (Safety and Reliability) Act 2008.*
>
> *This will operate to exclude dams, other than 'hazardous waste dams'. Hazardous waste dams are regulated under the Environmental Protection Act 1994 and are therefore also exempt from the definition of levee.*[34]

In response to the Queensland Conservation and Healthy Waterways submissions, DNRM advised:

> *Clause 301 of the Bill inserts a new section 969 into the Water Act 2000. New section 969 provides criteria that the chief executive must, in exercising jurisdiction for an application to construct or build a new levee, assess the application against. Those criteria address a broad range of issues including:*
>
> - *impacts on the catchment*
> - *benefits to the individual applying for the development approval and the nearby community*
> - *possible adverse impacts on landholders in the catchment*
> - *implications for land planning and emergency management procedures, and*

[31] Healthy Waterways, 2013, *Submission No.16*, p.3.
[32] Department of Natural Resources and Mines, *Response to submissions,* pp.31-2.
[33] Department of Natural Resources and Mines, p.32.
[34] Department of Natural Resources and Mines, pp.32-3.

- *whether any structural, land planning or emergency management measures could be taken to mitigate the possible adverse impacts of the proposed construction or modification.*

In addition, new section 967 of the Water Act enables a regulation to be made prescribing a code against which the application may, or must, be assessed by an assessing authority. A regulatory impact statement will be published for public consultation prior to the making of the regulation and accompanying code.[35]

Committee comment

The committee notes the comments by submitters and is satisfied by the advice provided by the department.

The committee recommends that the department continue to monitor pre-existing levees which will not be affected by the provisions of this Bill to ensure those levies do not endanger other landholders and infrastructure.

Recommendation 1

The committee recommends that the Department of Natural Resources and Mines continue to monitor pre-existing levees which will not be affected by the provisions of this Bill to ensure those levies do not endanger landholders and infrastructure.

Removing the requirement for a Riverine Protection Permit to destroy vegetation

Currently, a person undertaking vegetation clearing in a watercourse, lake or spring is required to consider the requirements of two different frameworks under the *Water Act 2000*, and under the *Vegetation Management Act 1999* in conjunction with the *Sustainable Planning Act 2009*. Although in most cases the two frameworks work together, a person may need to obtain both a riverine protection permit (under the *Water Act 2000*) and a vegetation clearing permit (issued under *Vegetation Management Act 1999*) before undertaking the clearing.

In its summary of the provisions prepared for the committee, DNRM explained that the Bill will simplify the approval process for landholders so that only one regulatory framework (the *Vegetation Management Act 1999* and the *Sustainable Planning Act 2009*) will apply when undertaking vegetation clearing in a watercourse, lake or spring. The amendments to the *Water Act 2000* will remove the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring.

Comments by submitters

The **Queensland Resources Council** support the amendments.[36]

Agforce Queensland support this amendment to "…significantly simplify the regulation of vegetation management by bringing it under a single umbrella while retaining protections of sustainability and bank stability."[37]

The **Queensland Farmers' Federation** support the amendment. They submitted:

QFF supports this amendment which will remove an overlap between the Water Act 2000, the Vegetation Management Act 1999 and the Sustainable Planning Act 2009."[38]

[35] Department of Natural Resources and Mines, *Response to submissions*, pp.48-9.
[36] Queensland Resources Council, *Submission No. 4*, p.3.
[37] Agforce Queensland, 2013, *Submission No.18*, p.3.
[38] Queensland Farmers' Federation, 2013, *Submission No. 11*, p.3.

Ergon Energy support this amendment**.** The Ergon submission states:

> *It squarely can be considered as red or green tape. The current requirement for a riverine protection permit can cause delays to a customer connection and can increase the costs associated with providing the connection. The removal of the Water Act requirements is supported, particularly because it arises in circumstances where Ergon Energy does not otherwise need any clearing permit.*[39]

Powerlink support the proposed amendment "…to the extent that it avoids duplication and simplifies the regulation of vegetation clearing activities", but sought clarification of the following:

> *(1) In the absence of the requirement for a riverine protection permit under the Water Act for vegetation clearing / destruction, will the Guideline remain operative?*
>
> *(2) We note that the Guideline provides: "Clearing of native vegetation in a water-course or lake does not require assessment under the SPA if the clearing is carried out in accordance with this [G]uideline." If the Guideline is no longer operative under the Water Act, what assessment will be required under the SPA?*
>
> *(3) Furthermore, we note that the commencement of the amendment is proposed to coincide with consequential amendments to the SPR, which will retain an exemption (Schedule 24, part 1, item 1) to allow the clearing of an area of vegetation (less than 0.5 ha) in a watercourse, lake or spring where:*
>
> > *(a) the clearing is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring and*
> >
> > *(b) the excavating or placing of fill is either authorised by a riverine protection permit or carried out under a chief executive approved guideline. Clearly this exemption will not be available to Powerlink if the Guideline is no longer operative.*
>
> *(4) We note that a riverine protection permit will still be required to excavate or place fill in a watercourse, lake or spring, and therefore we seek clarification whether the Guideline will remain operative in these circumstances.*[40]

Queensland Conservation do not support the amendment and recommend that clauses 293 and 294 should be deleted from the Bill. Their submission states:

> *…due to the critical role it provides in underpinning Queensland's prosperity, it is essential that riparian vegetation is protected under robust legislation in order to ensure the biophysical integrity of waterways are maintained. Riverine Protection permits are an essential 'check and balance' mechanism under the Water Act 2000 to ensure that environmental degradation does not occur from development activities in waterways. Removing the requirement to obtain a Riverine Protection permit to destroy above ground parts of riparian vegetation essentially disregards the purpose of the Water Act 2000, which is to advance the sustainable management and efficient use of waters of the State.*[41]
>
> *The rationale for removing the requirement to obtain a Riparian Protection Permit to destroy vegetation above ground parts of riparian vegetation from the Water Act 2000 due to perceived duplication with the Vegetation Management Act 1999 is flawed due to the following reasons:*
>
> - *The Vegetation Management Act 1999 does not contain provisions that specifically protects the biophysical integrity of waterways*

[39] Ergon Energy, 2013, *Submission No. 15*, p.1.
[40] Powerlink, 2013, *Submission No.9*, pp.3-4.
[41] Queensland Conservation, 2013, *Submission No. 3*, p.3.

- *While section 19(2) of the Vegetation Management Act 1999 enables the Minister to declare an area that is vulnerable to land degradation, enacting this provision is at the Minister's discretion – which can be swayed due to political and other imperatives*
- *The purpose of Riparian Protection Permits under the Water Act 2000 is to ensure that degradation to water resources does not occur from undertaking activities in watercourses. In comparison, applicable provisions (s19) in the Vegetation Management Act 1999 only apply once degradation has occurred.*[42]

Capricorn Conservation Council submitted that:

> *…of particular concern for our organisation (but our concerns are not limited to these) are the proposed changes to remove the requirement of a Riverine Protection Permit to destroy vegetation and the removal of the requirement for licenses to interfere with watercourses. We do not support clauses 293, 294 and 228 in the Bill.*[43]

Healthy Waterways also submitted that they have strong scientific evidence that demonstrates the benefits of retaining and increasing vegetation within watercourses, wetlands and floodplains. They explained in their submission:

> *For riparian zones to provide the critical services of riverbank stability, flood risk reduction, water quality improvement and general river health improvement, including biodiversity, it is essential that above and below ground vegetation is maintained and enhanced. Removal of the above ground vegetation will eventually result in loss of the bank stability provided by the below ground (roots). The removal of this requirement, that helps to focus community and government attention on the values of vegetation within watercourses, is likely to result in poorly planned modification to watercourses that will increase public risks and community recovery costs, following extreme weather events (e.g. floods).*[44]

Healthy Waterways recommended that the amendment to the Water Act be replaced with a new amendment drafted to facilitate the development of a collaboratively developed catchment vegetation plan that would assist in the issuing of permits for minor works, removing unnecessary delays in process.[45]

WWF-Australia commented extensively on the proposed removal of requirements for riverine protection permits:

> *These changes are presented as low risk and administrative but are in fact a significant reduction in the protection of vegetated waterways and wetlands, and will have far reaching economic and environmental impacts.*[46]

They further noted in their submission that:

> *…the proposed change is to remove the requirement under the Water Act 2000 to obtain a Riverine Protection Permit (RPP) for clearing of vegetation within a watercourse, lake/wetland or spring. The explanatory notes characterises the change as removing an overlap with approvals required under the Vegetation Management Act 1999 (VMA) - so that "all clearing/destruction of vegetation is regulated under one framework in Queensland.*
>
> *This characterisations of the proposed amendments is inaccurate. Whilst there is some area of overlap, there are many instances where approval for clearing of watercourse vegetation requires a Water Act approval but not an approval under the VMA. Therefore, the*

[42] Queensland Conservation, 2013, *Submission No. 3*, p.4.
[43] Capricorn Conservation Council, 2013, *Submission No. 19*, p.1.
[44] Healthy Waterways, 2013, *Submission No. 16*, p.2.
[45] Healthy Waterways, 2013, *Submission No. 16*, p.2.
[46] WWF-Australia, 2013, *Submission No. 14*, p.1.

amendment means that many watercourses will now be open to vegetation clearing. The RPPs under the Water Act apply to all watercourses and therefore all vegetation in watercourses is protected. The Vegetation Management Act only protects certain classes of vegetation including: remnant, high value regrowth, and riparian regrowth in three GBR catchments. The amendment therefore means many watercourses will no longer be protected from vegetation clearing. If other foreshadowed amendments to the VMA go through the extent of watercourses exposed will increase.

WWF conservatively estimates (based on Queensland Government data on watercourses and protected vegetation) that around 100 000 kilometres of waterways will now be able to be cleared. About 60 000 kilometres will be open for clearing in the Fitzroy catchment alone. Of the remaining 40 000 kilometres a large proportion is contained in the South East Queensland catchments.

WWF listed a range of economic and environmental implications should the amendment be agreed to, and submitted that the Government should undertake a thorough investigation of how the proposed amendment would impact on these issues.

Poor drinking water quality: *The recent floods in South East Queensland led to water supply challenges due to the amount of sediment flowing into dams overwhelming water treatment plants. Clearing of waterways in SEQ would significantly increase the amount of sediment flowing into water supply dams during floods and in more normal flow events (Moreton Bay would also have significantly increased sediment deposition and consequent impact on marine health).*

Flooding will be exacerbated: *Vegetated watercourses slow the flow of water and therefore reduce both the extent and speed of downstream flooding. Clearing of watercourse vegetation will increase flood risk. The consequences of vegetation clearing on flooding can be modelled, and should be undertaken.*

Invasive Weeds: *Canopy vegetation in watercourses reduces light reaching the ground and therefore significantly supresses the establishment and growth of weeds. Clearing of watercourse vegetation would provide a perfect environment for the proliferation of invasive weeds.*

Reef Water Quality Protection Plan*: The removal of RPP vegetation protection would mean that targets for watercourse and wetland protection will not be met, and meeting targets for reductions in sediment load will be much more challenging and expensive.*

Biodiversity: *Vegetated watercourses and wetlands are in themselves hotspots for biodiversity but they also act refugia in times of drought as well as providing corridors between larger habitat areas.*

WWF-Australia also stated that there has been insufficient analysis of the scale and consequences of amendments to Riverine Protection Permits, and that this analysis must occur before these amendments are progressed. WWF-Australia recommended that the protection of all watercourse vegetation should be transferred to the VMA as part of the amendments, if the aim is, as claimed, to remove duplication.[47]

The **Wilderness Preservation Society of Queensland** submitted that the requirement to obtain a riverine protection permit should remain in order to ensure that any proposed vegetation clearing is undertaken within strict guidelines to minimise any harm to environmental values or the stability of the banks of the watercourse, lake or spring. They stated:

[47] WWF-Australia, 2013, *Submission No. 14*, p.2.

We note that there is the proposal to retain an exemption in schedule 24, part 1, item 1 of the Sustainable Planning Regulation 2009 to allow the clearing of an area of vegetation (less than 0.5 ha) in a watercourse, lake or spring where the clearing is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring and the excavating or placing of fill is either authorised by a riverine protection permit or carried out under a chief executive approved guideline. Retaining this exemption (to this extent) will ensure there is no duplication of approvals. We are in favour of this proposal, but think, as stated, that the requirement for a riverine protection permit should remain in place for any proposed destruction of vegetation, to ensure that appropriate and adequate safeguards are in place.[48]

Advice from DNRM

In separate advice to the committee, DNRM noted:

Importantly, a person will still be required to obtain a riverine protection permit to excavate fill where vegetation below the surface, such as root masses, are proposed to be excavated or place fill in a watercourse, lake or spring. Fill includes vegetative material (dead or alive) below the surface.[49]

In response to the issues raised by Powerlink, DNRM advised:

(1) The destruction of vegetation will no longer be authorised under the Water Act 2000. Only the excavation or placing of fill in a watercourse, lake or spring will be authorised under a riverine protection permit or a guideline approved by the chief executive. As such, the existing chief executive guidelines will be amended or replaced so that they will only apply to the excavation or the placing of fill in a watercourse, lake or spring.

(2) Development approval will not be required under SPA where the clearing of vegetation is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring.

(3) The exemption in schedule 24, part 1, item 1 will not apply to activities in a watercourse, lake or spring that solely relate to the clearing of vegetation (i.e. where the clearing of vegetation is not a necessary and unavoidable part of excavating or placing fill).

(4) The Guidelines (once amended or replaced) will only apply to the excavation or placing of fill in a watercourse, lake or spring.[50]

In response to issues raised by Conservation Queensland, DNRM advised:

The department acknowledges that there will be some circumstances where there will be no regulation, approval or self-assessment required to destroy vegetation in a watercourse, lake or spring. It is approximated that this will occur in less than 10 cases annually.

There are a low number of riverine protection permits issued solely for destroying vegetation. Most applications for a riverine protection permit relate to more than one activity. In the 2011-2012 financial year, 131 riverine protection permits were issued. Of those, 47 related to vegetation clearing and excavation or placement of fill, and only one related solely to vegetation clearing.

Removal of the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring under the Water Act 2000 presents a low risk to the physical integrity of a watercourse, lake or spring.

More specifically, a person will still be required to obtain a riverine protection permit to excavate vegetative material below the surface (such as root masses) which plays an important role in bank stability.

[48] Wilderness Preservation Society of Queensland, 2013, *Submission No. 2*, pp.1-2.
[49] Department of Natural Resources and Mines, *Correspondence*, 18 April 2013.
[50] Department of Natural Resources and Mines, *Response to submissions*, pp.26-7.

> *In deciding whether to grant or refuse an application for a riverine protection permit to excavate or place fill in a watercourse, lake or spring, or what should be the conditions of the permit, the chief executive must consider the type, quantity and position of the vegetation that may be destroyed as a necessary and unavoidable part of excavating or placing fill. This will enable the chief executive to, for example, consider the effects on the physical integrity or water quality of a watercourse, lake or spring. The chief executive can also condition a riverine protection permit to require rehabilitation post-excavation or replacement of fill to, for example, restore bank stability.*[51]

In response to the Healthy Waterways submission, DNRM advised:

> *The concerns raised by Healthy Waterways are beyond the scope of the amendments to the riverine protection framework in the Water Act 2000 made by the Bill.*
>
> *By way of background, the purpose of the amendment is to remove the requirement for a person to obtain a riverine protection permit to destroy vegetation in a watercourse, lake or spring, and to ensure that all vegetation clearing-related activities are regulated under one regulatory framework.*
>
> *The amendment does not remove a person's obligation to comply with other relevant legislation, such as the Vegetation Management Act 1999. As such, the effects of the amendments to the riverine protection framework are considered low risk. The department acknowledges that there will be some circumstances where there will be no regulation, approval or self-assessment required to destroy vegetation in a watercourse, lake or spring. It is approximated that this will occur in less than 10 cases annually.*
>
> *The statement made by Healthy Waterways that 'removal of the above ground vegetation will eventually result in loss of the bank stability provided by the below ground (roots)' is a general one. Ultimately, the impacts on bank stability will depend on the vegetation being removed. The type of vegetation most commonly found within watercourses is referred to as primary colonisers. These plants are the first to start to grow and are often short-lived varieties that are adapted to reshoot quickly from ground level.*
>
> *Healthy Waterway's recommendation in relation to the development of a catchment vegetation plan is not relevant to this amendment or to the Water Act 2000 which is primarily concerned with protecting the physical integrity of a watercourse, lake or spring. Healthy Waterway's recommendation could more appropriately be addressed in the Vegetation Management Act 1999.*[52]

In response to the concerns raised by the Wilderness preservation Society, DNRM advised:

> *The concerns of the Wildlife Preservation Society are noted. To minimise any harm to the environmental values or the stability of the banks of the watercourse, lake or spring, clause 294 of the Bill provides that the chief executive must, before deciding whether to issue a riverine protection permit to excavate or place fill where the destruction of vegetation is a necessary and unavoidable consequence, consider the type, quantity and/or position in the watercourse, lake or spring of the vegetation to be destroyed in order to consider the effects on the physical integrity of the watercourse, lake or spring*[53]*.*

The committee sought further advice and assurances from DNRM in relation to the likely impacts of the proposed removal of the requirement for Riverine Protection Permits. DNRM advised[54] that in the 2011-2012 financial year, 131 riverine protection permits were issued. Of those, 47 related to

[51] Department of Natural Resources and Mines, *Response to submissions*, pp.44-8.
[52] Department of Natural Resources and Mines, pp.34-5.
[53] Department of Natural Resources and Mines, pp.35-6.
[54] Department of Natural Resources and Mines, *Correspondence,* 19 April 2013.

vegetation clearing and excavation or placement of fill, and only one related solely to vegetation clearing.

Given the low number of riverine protection permits issued solely for destroying vegetation, and that most applications for a riverine protection permit relate to more than one activity, the department approximated that the destruction of vegetation would not be regulated (i.e. circumstances in which the destruction of vegetation may not be regulated where it was previously subject to requirements under the *Water Act 2000*) in fewer than 10 cases (applications) annually. This figure was based on the retention of the exemption in the Sustainable Planning Regulation 2009. The exemption in schedule 24, part 1, item 1(2) will be retained but amended, and will provide that clearing an area of vegetation that is less than 0.5 hectares in a watercourse or lake, where the clearing is a necessary and unavoidable part of excavating or placing fill authorised under a riverine protection permit or carried out in accordance with one of the chief executive approved guidelines, it not assessable development under the Sustainable Planning Regulation 2009.

This exemption is being retained to ensure that a person does not need to obtain two permits (i.e. one to excavate or place fill under the *Water Act 2000*, and one under the *Vegetation Management Act 1999/Sustainable Planning Act 2009* to destroy vegetation) where one is currently only required (i.e. a riverine protection permit). This is necessary as most applications for a riverine protection permit relate to more than one activity.

In its advice, the department also noted that there are a significant number of exemptions from the requirement to obtain a riverine protection permit to destroy vegetation.

The Department encourages the use of the guidelines as it allows a landholder to undertake necessary activities in a watercourse, lake or spring without the need for a riverine protection permit. The guidelines encourage a self-management approach and provide solutions to minimise the impacts of activities on the physical integrity of a watercourse, lake or spring.

According to DNRM, the use of the guidelines places a certain level of trust in landholders, however the department considers that landholders are aware of the importance of maintaining and protecting the physical integrity of a watercourse, lake or spring, protecting infrastructure in the watercourse and minimising impacts on upstream and downstream users.

Finally, the committee sought an assurance from the department that the provisions in the Bill to remove the requirement for landholders to hold a riverine protection permit to clear vegetation from in and around waterways will not lead to adverse environmental outcomes, such as increased sediments in waterways in South East Queensland and other areas of the state potentially affecting water supplies and causing other problems for downstream and coastal ecosystems.

The department advised that adverse impacts will be minimal, and that the 'gap' created between what continues to be regulated under the vegetation management framework and what will no longer be regulated under the *Water Act 2000* will not be significant.[55]

Committee comment

The committee notes the strong concerns raised by some submitters, notably the WWW-Australia, Conservation Queensland, Capricorn Conservation Council and the Wilderness Preservation Society of Queensland about the proposed amendment to the Water Act to remove the requirement for a Riverine Protection Permits to clear riverine vegetation. The committee shares their interests in ensuring that the State's waterways remain healthy, and that crucially important riparian vegetation continues to be carefully managed and protected. The committee also notes the support for these amendments from the Queensland Farmers' Federation and Agforce, whose members have been most closely and directly affected by burdens caused by the current dual permit system.

[55] Department of Natural Resources and Mines, *Correspondence*, 18 April 2013.

The committee also notes the advice from DNRM about exemptions that are in place and relatively low numbers of Riverine Protection Permits issued by the department solely for clearing vegetation, as well as the protections for riverine vegetation that will continue to operate. We note in particular the small number of cases where the department estimates that the destruction of riverine vegetation will not be regulated in some way if these amendments are passed.

The committee is satisfied that the proposed amendments are reasonable and soundly based.

The committee recommends that the Government continue to monitor sediment levels, water quality and other environmental impacts on downstream ecosystems.

Recommendation 2

The committee recommends that the Government continue to monitor sediment levels, water quality and other environmental impacts on downstream ecosystems.

Compulsory Acquisition Process

The amendments to the *Acquisition of Land Act 1967* will give the option to shorten approval processes where there are no objections to lands being acquired. The Bill provides that in circumstances where no objection is lodged, the Minister or the Minister's delegate may decide to acquire the land and the matter will no longer be referred to the Governor in Council for the issue of the gazette resumption notice.

The department advised the committee that these amendments will cut red tape and regulation by simplifying the process of publishing a gazette resumption notice taking the land or easement and consequently lower administrative costs for the State and constructing authorities such as Powerlink and Energex. Constructing authorities will be able to have a shorter lead time and access land earlier, without disadvantaging landholders. [56]

Following the approval of the take by the Minister (if there are no objections) or following a section 15 agreement (if all the parties agree) a gazette resumption notice will be published.

Comments by submitters

Powerlink submitted that despite extensive discussions with DNRM about the amendments to the Acquisition of Land Act (ALA), they had not reached a satisfactory position that is consistent with the scope of the proposed review and policy direction and which won't delay the delivery of electricity infrastructure.[57]

The Cape York Land Council submitted that:

> *CYLC notes that the proposed amendments to shorten acquisition processes in cases where the parties do not object, do not apply to the taking of land if that land includes "Aboriginal or Torres Strait interests". "Aboriginal or Torres Strait Islander interests" exist if native title rights and interests exist for the land, or the land is Aboriginal land or transferable land under the Acquisition of Land Act (ALA). CYLC assumes that the reference to the existence of native title rights and interests would include land where native title rights and interests are asserted but not yet recognised.*[58]

Ergon Energy suggested in its submission that:

> *… consideration be given to refining the current drafting so that the expedited procedure can be available to network service providers for corridor purposes in circumstances where an*

[56] Department of Natural Resources and Mines, *Brief on policy*, p. 4.
[57] Powerlink, 2013, *Submission No. 9*, p.4.
[58] Cape York Land Council, 2013, *Submission No. 8*, pp.2-3.

> *objection is made and the applicable network service provider has heard and considered all objections in accordance with the ALS but decided that it is still appropriate to take the subject land. Ergon Energy submits that such an approach would give the Minister comfort that a sufficient part of the process has been undertaken and objections have been dealt with under the ALA but allows network service providers to take advantage of the expedited process.*[59]

Similarly, **Powerlink** proposed amendments to the provisions in the Bill designed to expedite the acquisition processes for corridor land.[60]

Advice from DNRM

In response to the Powerlink submission, DNRM advised:

> *At the current time, the intention is to shorten the compulsory acquisition process in simple or straightforward matters only. These matters are effectively where no objections are received by a constructing authority such as Powerlink or Ergon Energy. In other cases, it is not intended to change the process whereby the Minister considers an application which is received from a constructing authority and then referred to the Governor in Council.*
>
> *The compulsory acquisition of land is considered a necessary but significant undertaking by government. The Department assesses all applications for resumption by constructing authorities to ensure the application is properly made, compliant with the ALA and appropriate for forwarding to the Minister for consideration and then to the Governor in Council.*
>
> *The application of natural justice or procedural fairness is paramount for all acquisition cases and the Department is very conscious of the need for this to be extended to all persons affected by an action under the ALA. The referral to the Governor in Council adds another tier to the integrity of this process particularly in matters which are not considered to be straightforward.*[61]

And

> *Corridors involve large distances and invariably objections. They are not considered straightforward matters which the amending legislation is intended to cover.*[62]

In response to the CYLC submission, DNRM advised:

> *If native title has not been extinguished over land where there is to be future use, then native title is assumed to exist and must be appropriately dealt with. For example this could be by way of the compulsory acquisition of the native title rights and interests or by way of an indigenous land use agreement. This applies where native title rights and interests are asserted but not yet recognised.*
>
> *The proposed amendments clarify that there is no change to the current process for the compulsory taking of native title rights and interests in relation to land and also for the taking of land that is Aboriginal land or transferable land under the Aboriginal Land Act 1991 or land that is Torres Strait Islander land or transferable land under the Torres Strait Islander Land Act 1991. The shortened acquisition processes do not apply to these types of acquisitions.*[63]

[59] Ergon Energy, 2013, *Submission No. 15,* pp.1-2.
[60] Powerlink, 2013, *Submission No. 9*, pp. 1-3.
[61] Department of Natural Resources and Mines, *Response to Submissions*, p.3.
[62] Department of Natural Resources and Mines, p.9
[63] Department of Natural Resources and Mines, p.7.

Committee comment

The committee notes the comments by submitters and is satisfied by the advice provided by the department.

Public utility easements

A public utility easement may be registered under the Land Act 1994 and the Land Title Act 1994 in favour of a public utility provider if the easement is for a public utility service. [64]

Clause 109 of the Bill amends the *Land Act 1994* and the *Land Title Act 1994* to expand the definition of public utility provider to enable utility easements over state land to be granted to co-operatives and private entities that are public utility providers. Since introduction of the public utility easement provisions, the entities that may be required or authorised to provide a particular utility service have expanded from government entities overseen by state, local and statutory bodies, to include private entities.[65]

Comments by submitters

In their submission to the committee, **Ergon Energy** submitted that the use of the term 'public' in the proposed expanded definition of 'public utility provider', created confusion. Ergon Energy submitted:

> *The term 'public utility service' by its very nature has the connotation that there must be a service provided to the public at large rather than for example a service being provided by a commercial entity which owns infrastructure to one person or other entity at a mine or other site upon which a commercial operation is being undertaken. That is the view taken by the relevant departments in past dealings.*
>
> *On that basis, the proposed expanded definition of 'public utility provider' may not allow for the scenario where an entity may be approved by the Minister to provide a public utility service but fails to provide the service to the public at large by nature of or the use of the word 'public' in the term 'public utility service'.*
>
> *Review of the explanatory memorandum and the summary seems to indicate that this interpretation is not the intention of the legislative amendments but this could be made clearer. For example, a commercial entity may be approved by the Minister to provide a service to a mine which will not service the public at large.*

Ergon Energy submit that the references to 'public' in the definition of 'public utility provider' and the provisions referring to a 'public utility service' need to be revisited and amended to clarify the above matters:

> *A simple solution may be to define what a public utility service actually is and remove references to "public" by renaming it a "utility service" or similar.*[66]

However, in their submission to the committee the **Queensland Farmers' Federation** (QFF) supported the proposed expanded definition. The QFF submitted:

> *QFF supports expanding the definition of a public utility provider to allow entities such as Category 2 water boards which are converting to private entities to register easements for their services.*[67]

[64] Explanatory Notes, Land Water and Other Legislation Amendment Bill, p.13.
[65] Explanatory Notes, p.13.
[66] Ergon Energy, 2013, *Submission No.15*, p.3.
[67] Queensland Farmers' Federation, 2013, *Submission No.11*, p.6.

Advice from DNRM

The committee asked the department to respond to the issue raised by Ergon Energy.
The department advised:

> *By amendment to the definition of public utility provider in the Land Act 1994 and the Land Title Act 1994, co-operatives, commercial companies and other persons will be able to be recognised as a public utility provider under those Acts, for the purposes of dealing with public utility easements, provided they are authorised under a law to provide the service.*
>
> *To date, to meet the definition of 'public utility provider' has required a public utility service be provided to the public at large but changes in other legislation has necessitated this amendment. For example, if a special approval holder is authorised under the Electricity Act 1994 to perform an activity normally authorised by a transmission authority, the special approval holder may require an 'easement in gross' that enables the holder to perform that activity. The amendment to the definition of public utility provider will facilitate that requirement.*
>
> *The amendment does not change the current power of the Minister administering the Land Act 1994 to approve a person as a public utility provider for a particular public utility service provided the Minister is satisfied that person is suitable to provide the service.*[68]

Committee comment

The committee is satisfied with the response provided by the department in relation to the issue raised by Ergon Energy in their submission.

Changes to requirements to prepare Land and Water Management Plans

According to the DNRM policy brief on the Bill, the *Water Act 2000* currently provides a framework for the preparation and approval of land and water management plans (LWMPs). These plans are designed to regulate irrigation water-use practices to ensure that they are ecologically sustainable if a risk of land or water degradation exists.[69]

This amendment will remove the LWMP framework, and rely on irrigators and other *Water Act 2000* mechanisms to self-manage the risks of land and water degradation associated with irrigation water use. According to DNRM, the LWMP framework as it currently stands is not achieving its intended objectives due to the:

- difficulty in understanding when a LWMP is required
- slow implementation timeframes resulting in minimal benefit to sustainable water management, and
- resource intensity for irrigators in developing a LWMP.

Comments by submitters

Conservation Queensland recommend that rather than being removed from the Act, the Land and Water Management Plan framework should be reviewed and updated. Queensland Conservation submit that removing the requirement from the *Water Act 2000* for property owners to develop and implement a land and water management plan will significantly reduce the range of options the department can utilise to address causes of land and water degradation.[70]

"The **Great Barrier Reef Marine Park Authority** requested in its submission that "…the Queensland Government reconsider the proposed removal of the requirement for water title holders proposing

[68] Department of Natural Resources and Mines, *Response to submissions, p.7.*
[69] Department of Natural Resources and Mines, *Policy brief*, p.19.
[70] Conservation Queensland, 2013, *Submission No. 3*, p.5.

to undertake irrigation to prepare land and water management plans." The authority also noted that the Queensland Government has yet to implement many of the tools and water quality targets required to ensure that these plans are effective and managed in an integrated and strategic manner.[71]

WWF-Australia explained to the committee at the 12.4.13 public hearing:

> *The other issue that we are very concerned about is removing the requirement for land and water management plans. In our mind it is a very effective tool and, granted, they may not have been utilised effectively up until now, but essentially a land and water management plan addresses issues in regard to potential degradation to land and water resources from the use of water at a property scale. Basically what a land and water management plan does is enters into agreement with that property owner about moving towards better practices at the farm level in order to make sure that those potential degradation issues are avoided. The rationale that the water use plan provisions in the Water Act, section 60 I think it is, will basically address issues that occur at the property level isn't quite true because a water use plan basically gets applied at a broad regional level and a water use plan has never been applied anywhere in Queensland so it is an untried and unproven provision in the act to deal with these particular issues that might apply at a property level.*
>
> *We are very concerned about just removing these requirements from the act in that we believe it will be removing what could potentially be a very effective tool for both the government to achieve outcomes but also a very effective tool in assisting property owners move towards better practices and get better outcomes, both environmentally and economically for themselves, at that property level.*[72]

AgForce stated in their submission that they are supportive of the amendment in order to reduce the regulatory burden on irrigators and place greater emphasis on individual management of any property-level environmental risks. Primary production industries, including beef and grains, are proactively implementing best management practice (BMP) programs that encourage sustainable practices and a voluntary, education-based approach to these issues. This is seen as preferable to a complex regulatory approach and the capacity of the Government to implement targeted water use plans to manage impact risks on a landscape scale will be retained and this is appropriate for managing any particular high-risk areas."[73]

Advice from DNRM

In response to concerns about the removal of the Land and Water management Plan Framework, DNRM advised that there are a range of options to address the causes of land and water degradation under the existing water use plan framework as water use plans have very broad applicability and may be prepared for any part of Queensland.

The risks addressed by water use plans are very similar to land and water management plans, including but not limited to the following:
(a) rising underground water levels
(b) increasing salinisation
(c) deteriorating water quality
(d) waterlogging of soils
(e) destabilisation of bed and banks of watercourses
(f) damage to riverine environment, and

[71] Great Barrier Reef Marine Park Authority, 2013, *Submission No.13*, p.2.
[72] WWF-Australia, *Draft Public Hearing Transcript*, p.4.
[73] Agforce Queensland, 2013, *Submission No. 18*, pp.3-4.

(g) increasing soil erosion.[74]

DNRM also advised that the existing water use plan framework is an integrative and strategic mechanism to manage land and water degradation risks, as it has very broad applicability to any part of Queensland and is strategically targeted to areas of high risk.
A water use plan identifies outcomes that landholders are required to achieve to deal with degradation issues such as rising groundwater levels and salinization. It may specify how individuals are to meet the objectives, including setting standards for water-use practices and water quality targets. [75]

Committee comment

The committee notes the comments by submitters and is satisfied by the advice provided by the department.

Conversion of Petroleum wells

Amendments to the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004* provide a less onerous process for the conversion of petroleum wells to water supply bores or water observation bores. Minor amendments to the *Water Act 2000* will support the amendments to the petroleum legislation, to allow the transfer of the converted petroleum well to a landholder to use as water bore. These amendments will not negate the need to obtain a water entitlement if required.

Comments by submitters

The **Queensland Resources Council**[76]), **Origin Energy**[77]) and **Bridgeport Energy**[78]) support the amendments for the conversion and transfer of petroleum wells, including coal seam gas wells, to water supply bores, and without the requirement for a licensed water bore driller.
A number of submitters raised concerns about the proposed conversion of CSG wells to water or inspection bores.
The **Wildlife Preservation Society of Queensland** submited that "…when converting decommissioned petroleum wells, especially coal seam gas wells, to a water supply bore or a water observation bore, strict undertakings to ensure the safety and health of humans, livestock, and the environment must be in place. There must be full and thorough testing of the water prior to any decommissioning, to ensure that it is fully potable, free of any contaminants from petroleum residue, methane, or any other source."[79]
The **Queensland Farmers' Federation** support the amendment on the understanding that conversion of petroleum wells is competently handled and that any conversion to water supply bores takes into account any relevant water management arrangements that may be in place.[80]

AgForce submitted that:

> *…the Petroleum and Gas (Production and Safety) Act 2004 and the Petroleum Act 1923 currently prescribe that only water supply bores and water observation bores may be transferred to a landholder during the term of the petroleum tenure; and only properly decommissioned petroleum wells (converted to a water supply or observation bore) may be transferred after the petroleum tenure ends. The proposed amendments will streamline the*

[74] Department of Natural Resources and Mines, *Response to submissions*, pp.41-2.
[75] Department of Natural Resources and Mines, *Response to Submissions*, p.45.
[76] Queensland Resources Council, 2013, *Submission No. 4*, p.1.
[77] Origin Energy, 2-13, *Submission No. 12*, p.1.
[78] Bridgeport Energy, 2013, *Submission No. 7*, p.2.
[79] Wildlife Preservation Society of Queensland, 2013, *Submission No. 2*, p.1.
[80] Queensland Farmers' Federation, 2013, *Submission No. 11*, p.5.

process for the conversion of petroleum wells by extending the conversion to include petroleum well drillers (not only licensed water bore drillers), addressing safety and environmental matters and clarifying some administrative elements of conversion. The Bill indicates that simplifying the conversion process is likely to result in more petroleum wells being converted to water bores, benefitting the community by providing landholders with ready access to water, without the landholder having to specifically pay for the drilling of a water bore. Where this is accompanied by appropriate oversight of ongoing safety and water quality outcomes and a scientific understanding of the potential impacts on aquifers and other water users, these outcomes could be positive for primary producer landholders.

Agforce also stated:

Protecting the integrity of underground aquifers and surface environments and the health and safety of landowners who might use converted wells is of paramount concern to AgForce. It is vital that the long term integrity of operating and decommissioned and converted petroleum wells is ensured so that interconnection between coal seams and aquifers does not occur and water quality appropriate for landholder use is maintained. Where the statement by the well holder transferring the bore that it has been drilled to comply with the appropriate regulations is subsequently shown to be inaccurate and the well integrity compromised then the responsibility for achieving a proper conversion should remain with the well holder not the landholder. Compliance with the regulations and codes for conversion must be accompanied by transparent oversight and auditing by the Government. This should extend to the integrity of wells established prior to 1 January 2012. As part of the reform process, AgForce supports the establishment of a small committee, administered by DNRM, to provide a forum by which current and emerging issues regarding well conversion can be addressed over both the short and longer term. This advisory committee could be comprised of tenure holders, drillers, departmental staff, landholders or their representatives, environmental interests and water drillers to ensure an appropriate mix of expertise and interests and transparency. They would have a role in monitoring conversion compliance with the appropriate regulations and the application and regular updating of the Code of Practice for Constructing and Abandoning CSG wells in Queensland. It is suggested that the Agriculture, Resources and Environment Committee consider the establishment of such a group in support of the implementation of the proposed amendments.[81]

Advice from DNRM

In their advice to the committee, DNRM advised:

The conversion of a petroleum well will be restricted to those petroleum wells drilled on or after 1 January 2012 or decommissioned on or after 1 January 2012. The rationale behind this is that for coal seam gas (CSG) wells drilled or decommissioned on or after 1 January 2012, the drilling or decommissioning must have complied with the 'Code of Practice for the Construction and Abandonment of Coal Seam Gas Wells in Queensland' (CSG-COP). The CSG-COP was introduced to ensure, among other things, that all CSG wells are constructed and abandoned to a minimum acceptable standard resulting in long term well integrity, containment of gas and the protection of groundwater resources. By converting CSG wells that have been constructed and abandoned to the CSG-COP, the cross contamination of CSG and groundwater is extremely unlikely to occur. Further, the groundwater reservoir targeted when the CSG well is being converted to a water observation bore or water supply bore will be at a significantly lower depth than where any CSG was encountered. The CSG well abandonment procedure in the CSG-COP is such that the integrity of the CSG well will be

[81] Agforce Queensland, 2013, *Submission No. 18*, p.6.

maintained, again ensuring that there is no contamination of the groundwater reservoir by CSG. [82]

In response to the QFF submission, DNRM advised:

Amendments to subordinate legislation are proposed to ensure that the conversion is carried out in compliance with the requirements prescribed under a regulation. These requirements are likely to be contained in a Code of Practice, the drafting of which will be informed by reference to the current prescribed 'Code of Practice for the Construction and Abandonment of Coal Seam Gas Wells in Queensland' (CSG COP) and any requirements that must be complied with by a licensed water bore driller for the construction of water bores.

Also, the drafting of any Code of Practice that will regulate the conversion of a petroleum well to a water observation bore or a water supply bore, will be contributed to by government officers who are aware of the need to take into account water management arrangements that may be in place and ensure the protection of the groundwater resource. It should also be noted that a petroleum well may only be converted if the drilling of the well commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012.

The reason for this is that certain petroleum wells were drilled or decommissioned in compliance with the CSG COP. The petroleum wells constructed or abandoned in compliance with the CSG COP maintain long term well integrity, containment of gaseous petroleum and the protection of groundwater resources. For the conversion of wells to a water observation bore or water supply bore, the drilling of these wells must have commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012 to generally maintain the integrity of the resultant water observation bore or water supply bore.[83]

In response to the proposal from Agforce for the establishment of a small committee administered by the department as a forum by which current and emerging issues regarding well conversion can be addressed, DNRM advised that this is really a policy issue that cannot be addressed as part of the examination of the Bill. [84]

Committee comment

The committee notes the comments by submitters and is satisfied by the advice provided by the department.

The committee sees merit in this proposal from Agforce for the establishment of a small committee to consider current and emerging issues regarding well conversion.

The committee invites the Minister to advise whether he will consider establishing such a committee, or whether the resolution of emerging issues regarding well conversions will be the responsibility of the Gasfields Commission.

Point for clarification

The committee invites the Minister to advise whether he will consider establishing a small committee, administered by his department, as a forum for groups representing landholders and other stakeholders to work cooperatively through any issues that emerge with the conversion of gas wells to water and inspection bores, or whether the resolution of emerging issues regarding well conversions will be the responsibility of the Gasfields Commission.

[82] Department of Natural Resources and Mines, *Response to Submissions*, p.23.
[83] Department of Natural Resources and Mines, *Response to Submissions*, pp.18-9.
[84] Department of Natural Resources and Mines, p.20.

Should the Bill be Passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. After examining the form and policy intent of the Bill, the committee determined that the Bill should be passed.

Recommendation 3

The committee recommends that the Land, Water and Other Legislation Amendment Bill 2013 be passed.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee sought advice from DNRM in relation to a number of possible fundamental legislative principles issues. The following sections discuss the issues raised by the committee and the advice provided by the department.

Right and liberties of individuals

Section 4(2)(a) *Legislative Standards Act 1992* – Does the bill have sufficient regard to the rights and liberties of individuals?

Clauses 250, 251, 258, 265, 266, 268, 269, 270, 272, 277, 279, 280, 281 and 289
Changing requirement to notify in newspapers

The above-mentioned clauses change the requirement for matters to be notified in newspapers. For example, clause 250 would amend section 132 'Public notice of application to change water allocation' of the *Water Act 2000* so that the applicant is required to publish stated information in a stated period and in a stated way. The provision currently requires that the applicant to publish the notice in the newspaper or newspapers stated.

The explanatory notes describe these clauses in terms of 'providing flexibility when publishing public notices'[85] and indicate methods such as internet, SMS and email as alternatives to publishing information in the newspaper.

While not specifically mentioned in the Legislative Standards Act 1992, section 4, free public access to information is an important element of a parliamentary democracy based on the rule of law. On one hand these amendments give flexibility to the department in choosing a means of publication. On the other hand, members of the public do not have a reliable means by which they can expect to be notified about matters of importance. Updates may be posted on the department's website but members of the general public may not have the daily habit of reading and discussing the department's website as they do the newspaper. Regard should also be had to the fact that parts of Queensland have poor or patchy internet and SMS access.

These amendments give the department the ability to choose which is the most appropriate method of publicising information. It is important that this choice be made carefully, having regard to the policy objectives of the publication, the intended audience and the fact that free public access to information is an important element of a parliamentary democracy based on the rule of law. When the intended audience is the general public, it is important that a method that will capture the general public is selected. For example, sending SMS or email to people on a list would not capture the general public.

Clause 269 amends section 552 to mention a 'way the chief executive considers appropriate having regard to the intended audience for the notice'. This provision is a good example of the importance of having regard to the intended audience for the notice.

[85] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, p.29.

Request for advice:

The committee sought assurance from the department that the various amendments in the Bill designed to provide greater flexibility in how audiences are to be notified of important information will not lead to information being less freely accessible than if it had been advertised in newspapers as is currently required.

DNRM advice:

> *The Department of Natural Resources and Mines has always understood the need for information affecting specific stakeholders or large portions of the community to be easily and freely accessible. Therefore, in considering alternative methods of publication, the Department will ensure that in its decision making process the flexibility delivered will enhance, as opposed to limit, the accessibility of public notices. This will be achieved by taking into consideration the policy objectives, the intended audience, ease of access and the suitability of any proposed technologies.*

Committee comment

The committee is satisfied with the department's advice.

Clauses 279, 280, 281
Indemnity or payment for former water authorities

Clause 279 inserts new section 695A, which provides that registered owners of land may enter into a closed water supply agreement. Clause 280 inserts new section 696(3) which states that for a closed water supply agreement, nothing prevents the state obtaining an indemnity from any one or more of the parties. This indemnity, mentioned in section 696(1)(b)(i), is an indemnity for civil liabilities incurred by the State under section 705.

As described in the explanatory notes, 'the section clarifies that the State is able to obtain an indemnity or payment from the parties to the agreement.'[86] Clause 281 amends section 703 to provide that a legal proceeding against a former water authority may be continued and finished against any one or more of the parties to the closed water supply agreement. Therefore, if enacted, these clauses may lead to a situation where a party to a closed water supply agreement indemnifies the state for civil liabilities and continues or defends legal proceedings of the former water authority.

These situations create very significant legal obligations on the land owners which have the potential to impact their rights and liberties. These obligations may be regarded as the cost of entering into a water supply agreement. However, all landowners would need to be made aware of these potential obligations before entering into a closed water agreement. These amendments effectively shift the public responsibilities of the State and the water authority to the private sector – that is, the land owners. An obvious disadvantage of this is that the State has the ability to legislate to limit or exclude liability, but private individuals do not. Therefore these clauses raise issues of fundamental legislative principle.

Request for advice:

The committee sought advice from the department as to the justification for this potential imposition of liability on private individuals, and whether this justification is reasonable.

DNRM advice:

> *This new structure enables category 2 water authorities to voluntarily convert to an additional type of non-statutory arrangement. The existing alternatives under the Act that*

[86] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, p.131.

category 2 water authorities may convert to include a cooperative, corporation and trust. Under present arrangements a category 2 water authority converting to one of the three existing alternatives must, under s.696(b)(i), knowingly provide an indemnity to the State.

Category 2 water authorities are independent bodies, do not represent the State and may make any decisions in accordance with the Act. Where a category 2 water authority dissolves for the purpose of voluntarily converting away from a statutory status it is appropriate that the body assuming the responsibilities of the former board, also assume responsibilities for any legal proceedings that may have commenced, at the time of conversion.

It should be stressed that conversion of these water authorities is voluntary, and the new structure whether it be a cooperative, corporation, trust or parties to a closed water supply agreement is created by the former board for the express purpose of conversion. It should be similarly stressed that those category 2 water authorities that have converted or are currently in the process of converting have without hesitation already provided an indemnity to the State.

The risks, as evidenced by a lack of legal proceedings against existing category 2 water authorities, are extremely low. Therefore one could also assume that the risks of private parties to a closed water supply agreement incurring a personal liability are also very low. It should also be highlighted that there has been much interest by a number of existing category 2 water authorities where there are only a limited number of ratepayers, in transferring to private agreement. This has resulted in this amendment being proposed and therefore is a response to a recognised additional structural alternative for converting category 2 water authorities.

Committee comment

The committee is satisfied with the department's advice.

Part 20 – amendments to *Water Supply (Safety and Reliability) Act 2008*
Transfer of related entity's registration without consent

Part 20 of the Bill permits the infrastructure owner to transfer the related entity's registration as a service provider to another entity without the related entity's consent. It is possible for a related entity to be an individual person or an unincorporated body. Therefore there is potential for the rights and liberties of individuals to be impacted by these provisions. As stated by the explanatory notes '…this could cause great detriment to the related entity if it is not a party to, or in agreement with, the infrastructure owner's decision.' The explanatory notes offer the following justification for these provisions:

> *Although the ability to transfer the service provider registration vests in the infrastructure owner, it is unlikely to be exercised arbitrarily against the interests of the related entity. It will be a matter for the infrastructure owner and related entity to enter into a contractual arrangement to ensure their respective interests are protected. The infrastructure owner in the first instance nominates the related entity to operate its infrastructure and must have the ability to nominate another entity for registration, should the related entity no longer be able or willing to operate the infrastructure to provide the registered service.*[87]

Request for advice:

The committee sought assurances from the department that the provisions in Part 20 for the transfer of a related entity's registration without consent are reasonably justified given the potential for

[87] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, p.41.

these provisions to cause great detriment to the related entity as a party to the infrastructure owner's decision.

DNRM advice:

> *Although the infrastructure owner has the power to transfer the related entity's registration without consent, it is not expected that this would occur. In the conversion of the Pioneer Valley Water Board, the infrastructure owner and the related entity will be separate legal entities; however they are related and have mutual interests and mutual membership. The two tier cooperative structure (involving a mutual and a trading cooperative) is intended to secure the financial viability of the irrigation schemes as they transition to non-statutory bodies and local ownership.*
>
> *The rights between the infrastructure owner and the related entity are expected to be governed under contractual arrangements to the extent rights and obligations are not expressly dealt with under the Water Supply (Safety and Reliability) Act 2008. Dispute resolution between the entities should be dealt with under the legal agreement between the entities. In this regard, the related entity is on notice and can negotiate appropriate contractual terms in the event of a forced transfer of registration.*

Committee comment

The committee is satisfied with the department's advice.

Ownership and operation of infrastructure overriding landholder's rights

Proposed new section 30 provides that despite a contract, covenant or claim of right under a law of a State, a service provider can operate infrastructure as if it were the owner. As described by the explanatory notes, '…the policy intent is that the prescribed related entity has all the powers of a registered service provider under the Act and can exercise those powers despite not being the infrastructure owner'.

The wording of proposed new section 30(3) is very broad and may override existing contracts. Abrogation of contractual rights requires justification. The explanatory notes offer the following justification:

> *However, the provision is necessary and considered justified to ensure that a service provider has adequate access to and control over the infrastructure for providing the relevant service, even if the infrastructure is located on private land.*

Further, the explanatory notes at page 158-159 state that the policy intent of new section 30 includes '…being able to access infrastructure for supplying the registered service on private land where no easement exists for the infrastructure'.

It is not clear how a service provider could obtain access to private land to operate infrastructure if the owner of the infrastructure had no right of access to the land. It appears that the effect of this provision may be that entry could be gained to private land without consent of the owner which would be inconsistent with the 'long established rule of common law that protects the property of citizens',[88] specifically, the right of a person in possession of land to exclude trespassers.

Current Queensland drafting practice provides that entry of any premises is strictly controlled through requirements for warrants and limitation of circumstance. The explanatory notes describe the following limitations of circumstance:

[88] Office of the Queensland Parliamentary Counsel, 'Fundamental Legislative Principles: the OQPC Notebook', 2008, p. 45.

However, the Water Supply (Safety and Reliability Act) 2008 constrains a service provider's right to access private land by specifying the circumstances and the process under which a provider may enter private land. This will be of particular relevance to water authorities (established under the Water Act 2000) that convert to alternative institutional structures and which will no longer be able to rely on powers granted to water authorities under that Act, such as the power to take land for carrying out works and any other purpose within the authority's main functions'.[89]

Request for advice

The committee sought advice from the department as to whether the policy intent of this provision justifies entry to private land without consent.

DNRM advice

New section 30 does not give the prescribed related entity power to enter private land without consent. Under clause 319 of the Bill, new section 30A, in conjunction with the new definition of a 'service provider's infrastructure' inserted by the Bill, provides that neither ownership nor the operation of a service provider's infrastructure is affected because the infrastructure is or becomes part of any land or land that is sold or otherwise disposed of.

Entry to private land under the statutory provisions of the Water Supply (Safety and Reliability) Act 2008 (Chapter 2, Part 3, Divisions 2) is limited to specific purposes, such as to inspect, operate, change, maintain, remove, repair or replace the provider's infrastructure. However the provider may only enter the place at any reasonable time if:

- *the occupier consents to the entry; or*
- *the service provider has given the occupier at least 14 days notice of the entry and the purpose of the entry; or*
- *the service provider needs to take urgent action to protect its infrastructure at the place.*

If a service provider's infrastructure is located on private land and no easement exits, a prescribed related entity that is the registered service provider may only enter the land in accordance with the statutory powers mentioned above.

Committee comment

The committee is satisfied with the department's advice.

Administrative power

Section 4(3)(a) *Legislative Standards Act 1992* – Are rights, obligations and liberties of individuals dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

Clause 28
Taking of land by constructing authority by gazette notice

Clause 28 inserts new section 15D, which provides for land to be taken by a constructing authority (the State, local government or a person authorised to take land for any purpose) by gazette notice where there is a resumption agreement and written consent by every affected person for the land.

[89] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, p.41.

As indicated by the explanatory notes,[90] the new provision makes it 'unnecessary to obtain Governor in Council approval to a resumption agreement'. Under the method for taking land under proposed new section 15D, the Minister does not have any input into the process. This can be contrasted with the current provisions of section 15.

Therefore new section 15D omits two review mechanisms - consideration by the Minister (whether the land may and should be taken (section 15(11)) and the Governor in Council. This would provide that the construction authority alone determines whether it is entitled to take the land, and whether the land may and should be taken.

Compulsory acquisition of land is an area in which the rights and liberties of individuals may be seriously affected. Therefore, review mechanisms are especially important. The explanatory notes do not identify this potential issue of fundamental legislative principle or provide justification for the removal of the review by the Minister mechanism.

Request for advice

The committee sought the department's advice as to the justification for the removal of the Ministerial and Governor in Council review mechanisms for compulsory acquisitions of land by constructing authorities, and whether this justification is reasonable.

The committee also sought clarification of the avenues that would be open to landowners to challenge compulsory land acquisitions in the absence of the two review mechanisms that the Bill proposes to remove.

DNRM advice

> *Removal of the Ministerial and Governor in Council review mechanisms for compulsory acquisitions of land by constructing authorities*
>
> *Where all affected interests are dealt with by way of agreement or resumption, then it is considered reasonable that the constructing authority may enter into a section 15D resumption agreement and determine whether it is entitled to take the land, and whether the land may and should be taken. An affected party includes each person who will be entitled to claim compensation for example the landowner, a mortgagee or a lessee.*
>
> *Section 15C retains the current process where a section 15 Agreement is referred to both the Minister and the Governor in Council. Section 15D provides that a constructing authority may also declare that the land is taken without referral of a resumption agreement to the Minister or the Governor in Council.*
>
> *It is noted that the continuing ability to refer applications to the Governor in Council will ensure that the amendments will not jeopardise the potential loss of an exemption for the taking of plants. Specifically an authorisation by the Governor in Council provides an exemption in some cases to the taking of protected plants pursuant to the Nature Conservation Act 1992 (Qld) and section 41(1)(a)(i) of the Nature Conservation (Protected Plants) Conservation Plan 2000 (Qld)*
>
> *Avenues open to landowners to challenge compulsory land acquisitions in the absence of the two review mechanisms that the Bill proposes to remove.*
>
> *If the affected party agrees to the taking, then this party will not challenge the compulsory acquisition. If the party disagrees then this party may lodge an objection and there will be no change to either the rights of affected parties or to the two review mechanisms which currently exist.*

[90] Explanatory Notes, Land Water and Other Legislation Amendment Bill 2013, p.55.

Committee comment

The committee is satisfied with the department's advice.

Clauses 57 and 97
Stated mandatory standard terms document

Clause 57 amends the Land Act 1994, section 57 to mention a stated mandatory standard terms document. Clause 97 makes a similar amendment to section 332 of the Land Act 1994. The stated mandatory standard terms document is essentially the non-negotiable terms of a lease or sublease. This is a delegation of administrative power. It would be preferable if the stated mandatory standard terms document was identified in the Act or regulation including name, date, who approved it and where it is available to users of the legislation. This would help define this delegation of administrative power and enhance regard for the rights and liberties of individuals.

Request for advice:

The committee sought advice from the department as to whether the department will be identifying the stated mandatory terms document referred to in clauses 57 and 97 in a regulation, including name, date, who approved it and where it is available to users of the legislation.

The committee also advice as to whether clauses 57 and 97 of the Bill should be amended to identify the stated mandatory terms document.

DNRM advice:

A stated mandatory standard terms document will be a particular type of mandatory standard terms document. It is not proposed to amend the Bill or Land Regulation 2009 to identify them.

Section 318A of the Land Act 1994 currently provides for the Minister to lodge a mandatory standard terms document in the land registry. On the lodged mandatory standard terms document are noted the date and time of lodgement and an identifying reference (a dealing number). The mandatory standard terms document is registered.

The registered dealing number for each stated mandatory standard terms document, together with the date of approval and the type of mandatory standard terms document will be recorded by the Department of Natural Resources and Mines on its website along with other information and publications relating to the use of State land.

In addition, a person will be able to obtain a copy of a registered mandatory standard terms document on payment of the prescribed fee ($30.90).

A stated mandatory standard terms document may be created for certain interests in general (e.g. for all trustee leases granted by the State or statutory body), or certain interests in a particular area (e.g. for trustee leases granted by a local government in its particular local government area) or certain interests of a particular type (e.g. for trustee leases granted by the State or a statutory body for telecommunication purposes).

The terms of a stated mandatory standard terms document will not be prepared in isolation. The 'focus' of the mandatory standard terms document will determine whose views will be sought and considered before approval is given to the final terms of the document. For example, officers of the Department of Natural Resources and Mines will seek and consider the views of the Department of Transport and Main Roads if it is proposed to prepare a stated mandatory standard terms document for a trustee lease over a reserve for transport purposes.

Committee comment

The committee is satisfied with the department's advice.

Delegation of legislative power

Section 4(4)(a) *Legislative Standards Act 1992* – Does the bill allow the delegation of legislative power only in appropriate cases and to appropriate persons?

Clauses 2, 162, 163, 179, 180, 224, Part 14, Part 15
Commencement on assent and by proclamation

Some clauses of the Bill commence on assent and others commences on a date to be fixed by proclamation. The explanatory notes do not explain the rationale for this. It is common for Bills to commence partly on assent and partly by proclamation. However it is less common for one amendment to a section (for example, clause 154, which amends the Petroleum Act 1923, section 75L) to commence on assent and a separate clause making an amendment to that same section (for example, clause 163, which replaces section 75L) to commence by proclamation. This mechanism adds to the complexity of the Bill.

Request for advice:

The committee sought advice from the department as to reasons for including clauses in this Bill amending the same sections of legislation with different commencements and, in particular, the reasons for the two-stage amendments to the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*.

DNRM advice:

Certain clauses of the Land Water and Other Legislation Amendment Bill 2013 (the Bill) provide that for the conversion of a petroleum well to a water observation bore or a water supply bore and for the drilling of these bores, the requirements to be prescribed under a regulation must be complied with.

These clauses are proposed to commence by proclamation to allow sufficient time for meaningful consultation between the Queensland Government and the principle affected stakeholders, being the petroleum exploration and production industry and its key industry representative organisation. This consultation will result in providing the requirements to be prescribed under a regulation.

It is proposed that the prescribed requirements will be detailed in a Code of Practice, likely to be initially an amendment to the current 'Code of Practice for the Construction and Abandonment of Coal Seam Gas Wells in Queensland' (CSG COP) that has been prescribed under a regulation and must be complied with when petroleum tenure holders drill or abandon (decommission) a coal seam gas well.

Clauses in the Bill that relate to these proposed amendments will also commence by proclamation (for example, the proposed amendment that inserts the provision about the time the petroleum well is taken to be converted).

Other clauses of the Bill propose to amend sections of the Petroleum Act 1923 and the Petroleum and Gas (Production and Safety) Act 2004 on commencement.

These proposed amendments:

- *correct drafting anomalies from previous amendments made to the Petroleum Act 1923 and the Petroleum and Gas (Production and Safety) Act 2004 (see clause 153, 173 and 174 of the Bill);*

- *complement Queensland Government policy positions or regulations that are currently in effect (see clauses 154, 158, 159, 169, 170, 171, 172, 175, 176 and 177 of the Bill); and*
- *extend statutory requirements so that these apply not only to a petroleum tenure holder (as these currently do), but are proposed to apply to a water monitoring authority holder (see clauses 155, 156 and 157 of the Bill).*

Clause 154 of the Bill is to commence on assent and clause 163 of the Bill is to commence by proclamation. Both of these clauses propose to amend section 75L of the Petroleum Act 1923.

Clause 172 of the Bill is to commence on assent and clause 180 of the LWOLA Bill is to commence by proclamation. Both of these clauses propose to amend section 283 of the Petroleum and Gas (Production and Safety) Act 2004.

The reason that these sections are proposed to be amended at two separate times is because these sections currently provide that the conversion of a petroleum well to a water supply bore may be carried out by a licensed water bore driller.

To ensure that the petroleum well being converted maintains its integrity as a water supply bore upon conversion, clauses 154 and 172 of the Bill propose that only petroleum wells drilled (or decommissioned) on or after 1 January 2012 may be converted. This will ensure that certain petroleum wells proposed to be converted would have been drilled or decommissioned in compliance with the current CSG COP that came into effect at that date.

Any petroleum wells constructed or abandoned in compliance with the CSG COP maintain long term well integrity, containment of gaseous petroleum and the protection of groundwater resources. Therefore, it is imperative from a safety and environmental viewpoint that this provision commence as soon as is practicable.

It is proposed that clauses 163 and 180 of the Bill provide that a petroleum tenure holder may now convert a petroleum well to a water observation bore or a water supply bore. However, unlike a licensed water bore driller, there are currently no requirements to which a petroleum tenure must comply with for the conversion of a petroleum well to a water observation bore or a water supply bore.

As previously mentioned, clauses 163 and 180 of the Bill are proposed to commence by proclamation to allow sufficient time for meaningful consultation between the Queensland Government and the key affected stakeholders. This consultation will result in providing the requirements to be prescribed under a regulation.

Committee comment

The committee is satisfied with the department's advice.

Clause 23 and 29
Gazette notice by constructing authority

It was not clear to the committee whether it is an appropriate delegation of legislative power for a constructing authority (the State, local government or a person authorised to take land for any purpose) to declare by gazette notice that the land is taken for the purpose stated in the notice. This question is also relevant to the new definition of 'gazetting authority' in clause 23 and the amendment to section 17 in clause 29.

Request for advice:

The committee sought the department's advice as to whether it is an appropriate delegation of legislative power for a constructing authority (the State, local government or a person authorised to

take land for any purpose) to declare by gazette notice that the land is taken for the purpose stated in the notice.

DNRM advice:

Where all affected interests are dealt with by way of agreement or resumption, then it is considered reasonable that the constructing authority may enter into a section 15D resumption agreement and determine whether it is entitled to take the land, and whether the land may and should be taken. An affected party includes each person who will be entitled to claim compensation, for example, the landowner a mortgagee or a lessee.

If the affected party agrees to the taking, then this party will not challenge the compulsory acquisition. If the party disagrees then this party may lodge an objection and there will be no change to either the rights of affected parties or to the two review mechanisms which currently exist.

Committee comment

The committee is satisfied with the department's advice.

Amended section 75K P*etroleum Act 1923*

Clause 162 replaces section 75K of the *Petroleum Act 1923*. This clause inserts proposed new section 75K (2) and (3), and creates exemptions to the offence in section 75K(1). The maximum penalty for breach of section 75K is 300 penalty units. The new exemptions in sections 75K (2) and (3) are to be prescribed under a regulation.

Request for advice:

The committee sought assurances from the department that clause 162 which sets out exemptions to an offence punishable by up to 300 penalty units in a regulation, rather than in the *Petroleum Act 1923*, is an appropriate delegation of legislative power.

DNRM advice:

Clauses 162, 163, 179 and 180 of the Bill provide that certain penalties are applicable to non-compliance with the proposed sections being replaced by this clause.

It should be noted that the current sections of the Petroleum and Gas (Production and Safety) Act 2004 and the Petroleum Act 1923, which are being replaced by the provisions of these clauses, currently have penalties that are the same as those proposed by the clauses of the Bill for similar offences.

Not only were these previously endorsed by the Queensland Parliament by the enactment of the current sections, the penalty amounts have proven sufficient deterrent to non-compliance. This is because no penalty has been imposed for non-compliance with any of these current sections and no known non-compliance has occurred against these current sections.

The amounts proposed as penalties for non-compliance are of an amount comparable to the severity of the non-compliance. Any non-compliance may affect the safety or health of an individual, or have an adverse effect on the environment or future effect on the environment.

Therefore, it is a reasonable and appropriate delegation of legislative power to require compliance by the imposition of a fiduciary penalty, for that non-compliance of the sections highlighted, that are prescribed under a regulation, bearing in mind that only part of the requirements are prescribed under a regulation and any non-compliance may have a harmful effect on a person's health or safety.

Committee comment

The committee is satisfied with the department's advice.

Amended section 75L *Petroleum Act 1923*

Clause 163 replaces section 75L of the *Petroleum Act 1923*. Section 75L(1)(a)(i), 75L(1)(b) and 75(3) refer to the regulation. Therefore it is not possible to understand what conduct is prohibited simply by reading this section of the Act.

Similarly to the concerns raised about section 75K above, it would not seem an appropriate delegation of legislative power for a regulation to partly provide for an offence punishable by up to 500 penalty units. It is preferable for the entire content of an offence punishable by this sort of penalty to be set out in the Act. Therefore it appears that this clause does not have sufficient regard to the institution of Parliament.

Request for advice

The committee sought assurances from the department that clause 163 which sets out exemptions to an offence punishable by up to 500 penalty units in a regulation, rather than in the *Petroleum Act 1923*, is an appropriate delegation of legislative power.

DNRM advice

Please see the response to the query regarding section 75K of the Petroleum Act 1923 above.

Committee comment

The committee is satisfied with the department's advice.

Amended section 283 Petroleum and Gas (Production and Safety) Act 2004

Clause 180 replaces section 283 of the *Petroleum and Gas (Production and Safety) Act 2004*. Section 283(1)(a)(i), (1)(b) and (3) refer to the regulation. Therefore it is not possible to understand what conduct is prohibited simply by reading this section of the Act. Similarly to the concerns raised about section 75L above, it would not seem an appropriate delegation of legislative power for a regulation to partly provide for an offence punishable by up to 500 penalty units. It is preferable for the entire content of an offence punishable by this sort of penalty to be set out in the Act. Therefore it appears that this clause does not have sufficient regard to the institution of Parliament.

Request for advice:

The committee sought assurances from the department that clause 180 which sets out exemptions to an offence punishable by up to 500 penalty units in a regulation, rather than in the *Petroleum and Gas (Production and Safety) Act 2004*, is an appropriate delegation of legislative power.

DNRM advice

Please see the response to the query regarding section 75K of the Petroleum Act 1923 above.

Committee comment

The committee is satisfied with the department's advice.

Amended section 282 Petroleum and Gas (Production and Safety) Act 2004

Clause 179 replaces section 282 *Petroleum and Gas (Production and Safety) Act 2004*. Proposed new sections 282 (2) and (3) create exemptions to the offence in section 282(1). The maximum penalty

for a breach of section 282(1) is 300 penalty units. The new exemptions in sections 282 (2) and (3) are to be prescribed under a regulation. Similarly to the concerns raised about section 75K above, it would not seem an appropriate delegation of legislative power for a regulation to set out exemptions to an offence punishable by up to 300 penalty units. It is preferable for the entire content of an offence punishable by this sort of penalty to be set out in the Act. Therefore it appears that this clause does not have sufficient regard to the institution of Parliament.

Request for advice

The committee sought assurances from the department that clause 179 which sets out exemptions to an offence punishable by up to 300 penalty units in a regulation, rather than in the *Petroleum Act 1923*, is an appropriate delegation of legislative power.

DNRM advice

Please see the response to the query regarding section 75K of the Petroleum Act 1923 above.

Committee comment

The committee is satisfied with the department's advice.

Parts 14 (Clause 195) and Part 15 (Clauses 199, 200, 201, 202, 204 and 205)
'Relevant day' extended to 28 February 2014 or any other day prescribed under a regulation

The amendments in part 14 to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* and in part 15 to the *Sustainable Planning Act 2009* insert a definition of 'relevant day' as 28 February 2014 or any other day prescribed under a regulation. It is not ideal for prescription of this date to be dealt with by subordinate legislation. It would be preferable for it to be set out in the Act. That way users of the legislation would be clear when the transitional period ends by simply reading the Act instead of referring to the regulation. Therefore it is questionable whether these amendments have sufficient regard for the rights and liberties of individuals.

Request for advice

The committee sought assurances from the department that Part 14 amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* and Part 15 amendments to the *Sustainable Planning Act 2009* that insert a definition of 'relevant day' as 28 February 2014 or any other day prescribed under a regulation, rather than in the Acts, are an appropriate delegation of legislative power.

DNRM advice

These amendments provide for the extension of time for an SEQ temporary assessment process for water and sewerage issues in development applications. This extension will allow time for the distributor retailers in South-East Queensland (e.g. Queensland Urban Utilities and Unitywater) to be ready for a permanent assessment process, and for the distributor retailers and other SEQ water service providers to adopt infrastructure plans (the Water NetServ Plans)with the same timeframe. These other service providers needing to adopt the plans are Gold Coast, Redland and Logan City Councils.

The timeline for the permanent assessment process and plans is for commencement on 1 March 2014 and for the current delegated water assessment process to finish on 28 February 2014. The relevant agency (Department of Energy and Water Supply), the distributor retailers and councils are comfortable these implementation timeframes can be achieved.

However, there are other reform processes underway at the same time that may impact on meeting these implementation timelines. The Department of State Development, Infrastructure and Planning are leading wide ranging planning reforms, including a review of infrastructure charges. Depending on the outcomes of this reform program, there may be a need to adjust the start date for the permanent assessment process and associated infrastructure plans.

Accordingly, the amendments provide for a specific date for the cessation of the temporary assessment process at 28 February 2014 with the intention to adopt infrastructure plans and implement a permanent assessment process at 1 March 2014. However, including "or any other day prescribed under a regulation" in the definition of "relevant day" will allow for quickly changing the specific date if this becomes necessary to align with the outcomes of the broader government reforms currently underway.

The primary impact of any changed date under a regulation would be on the two Distributor-retailers and the three councils. The other affected parties would be persons that would be seeking approval under the permanent assessment process. It is intended that the distributor retailers (in conjunction with the Department of Energy and Water Supply will provide information to the development industry about any such date changes under a regulation.

Committee comment

The committee is satisfied with the department's advice.

Clause 224
Obtaining vegetation management watercourse map

Clause 224 inserts new section 20ADA into the Vegetation Management Act 1999. It would be preferable if this section stated when the map was made and where the map could be obtained by users of the legislation.

Request for advice

The committee sought advice from the department as to the reasons why new section 20ADA does not state the date the map was created and where it can be obtained by users of the legislation.

DNRM advice

Clause 226(2) of the Bill amends the dictionary to the Vegetation Management Act 1999 (VMA) to include 'vegetation management watercourse map' in the definition of 'vegetation management map'. Existing sections of the VMA already deal with the provision of details about when a vegetation management map is certified and where copies are available for inspection and purchase.

In relation to the date the map was created, section 20AG(1) of the VMA provides that a vegetation management map or a map replacing a vegetation management map does not take effect until a regulation approves the map. Section 20AG(2) provides that the regulation must state the day on which the map was certified.

In relation to where the map can be obtained by users of the legislation, section 70AA(2) of the VMA provides that the chief executive must:

a) keep the digital electronic form of the map available for inspection, free of charge, by members of the public at particular regional offices; and

b) publish the digital electronic form of the map on the department's website.

Committee comment

The committee is satisfied with the department's advice.

Clause290
Taking water for domestic purposes for subdivided land

Clause 290 inserts new section 20A into the Water Act 2000. Section 20A(3) states that water cannot be taken for domestic purposes if the land is declared under a regulation and subdivided after the regulation is made. It would be preferable for the content of this exemption to be set out in the Act and not dealt with by way of subordinate legislation. That way the Act itself will make it clear to members of the general public what conduct is permitted and what conduct is not, without recourse to the regulations. The Act has the advantage of being subject to debate in, and scrutiny by, Parliament.

Request for advice

The committee sought the department's advice as whether it is an appropriate delegation of legislative power for these matters to be dealt with by subordinate legislation, and the justification for not including this provision as an amendment to the *Water Act 2000* that is subject to debate in, and scrutiny by, Parliament.

DNRM advice

> *By way of background, section 20(3) of the Water Act 2000 currently provides that an owner of land adjoining a watercourse, lake or spring may take water from the watercourse, lake or spring for stock or domestic purposes. This authorisation is limited under subsection (7) such that a regulation may declare the land to which the authorisation does not apply. As such, clause 290 (new section 20A(2) & (3)) is a retention of an existing authorisation and associated limitation.*
>
> *As a result, it is considered appropriate that this limitation to the authorisation continue to be prescribed in the Water Regulation 2002 as it is a matter of technical detail which makes it more appropriate to be dealt with in a regulation. It is also necessary for this section to be framed in this manner as the Department will need to prescribe land in the regulation on a case by case basis where, for example, the subdivision of land in urban areas could increase the number of irrigated gardens which can have significant impacts on the availability of water for other users and for the environment.*
>
> *In addition, the fact that Parliament has the right to disallow particular subordinate legislation is considered an appropriate safeguard.*

Committee comment

The committee is satisfied with the department's advice.

Clause 301
Head of power for development applications for constructing new levees and modifying existing levees

Clause 301 inserts new section 967(2) which states that a regulation may make a provision about how the application may or must be assessed by an assessing authority. Clause 302 inserts new section 1014(2)(n), which states, among other things, that a regulation may provide for the control and management of the construction of new levees. These clauses implement Queensland Floods Commission of Inquiry recommendations about levees.[91]

[91] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, pp.1-2.

Request for advice

The committee sought the department's advice as whether it is an appropriate delegation of legislative power for these matters to be dealt with by subordinate legislation.

DNRM advice

The Committee has sought advice as to whether it is an appropriate delegation of legislative power to provide a power to make regulations to provide for:

- *how levee applications will be assessed by an assessing authority; and*
- *the control and management of the construction of new levees.*

It is appropriate that regulation making powers are provided for both of the above matters related to levees because both of those powers will require a level of technical detail that is more appropriate for regulation.

The control and management of the construction of new levees

It is intended that this power will be used to prescribe different categories of levees which will be based on the level of risk that the proposed levee or modification of levee poses. Each category of levee can then, under the Sustainable Planning Regulation 2009, be the subject of different levels of assessment, potentially ranging from self-assessable to code, impact or compliance assessable.

The regulation prescribing the various categories of levees will need to provide sufficient detail to enable an applicant, when lodging a development application, to make an informed decision about which category of levee the application relates to. That detail will be technical in nature and may include details such as height, volume of fill used, hydrological information and may even vary depending on the catchment concerned. It would not be appropriate to include such technical data in the Act.

How levee applications will be assessed by an assessing authority

This power will be used to guide assessing authorities in their assessment of levees. Just as the applicant needs to be able to refer to a regulation that contains technical data in order to make a decision as to what category of levee a development application should be lodged for, the assessing authority needs to be able to refer to technical data that will assist it to determine:

- *whether a proposed new development falls within the definition of a levee; and*
- *what category of levee the proposed development falls into.*

Again, it would not be appropriate to include such technical data in the Act.

Committee comment

The committee is satisfied with the department's advice.

Clause 305
Identification of guidelines

Clause 305 inserts new section 1246 into the *Water Act 2000*. Section 1246 mentions a number of activity guidelines.

Request for advice

The committee sought the department's advice as to whether it would be preferable to identify who made these guidelines and where they can be found by the general public.

DNRM advice

In relation to who made the guidelines, new section 1246(1) states that the guidelines are approved by the chief executive. It is clear that the reference to the chief executive is a reference to the chief executive administering the Water Act 2000 as the provision is contained within the Water Act 2000.

In relation to where the guidelines can be found, new section 1246 is a transitional provision and only applies to a person who is, before commencement of the section, destroying vegetation in a watercourse, lake or spring under one of the approved guidelines. As such, a reference to state where the guidelines can be found is not considered necessary as they are already being used.

Further, the guidelines are prescribed under section 49 (Destroying vegetation in a watercourse, lake or spring) of the Water Regulation 2002 which contains an editor's note stating that a copy of each of the documents may be inspected at the department's head office or on the department's website. As a result, it is considered that the guidelines can easily be found by the general public.

Committee comment

The committee is satisfied with the department's advice.

Aboriginal tradition and Island custom

Section 4(3)(j) *Legislative Standards Act 1992* – Does the bill have sufficient regard to Aboriginal tradition and Island custom?

Clause 85, part 2, part 17

Clause 85 amends section 188A so that the limited rent discount under that section applies only to leases of 1,000 ha or more. Section 188A was inserted into the *Land Act 1994* by the *Aboriginal and Torres Strait Islander Land Holding Act 2013*. The reasons for section 188A are explained by the explanatory notes for the Aboriginal and Torres Strait Islander Land Holdings Bill 2012 as follows:

The amendments in the Bill provide the statutory framework for rural leasehold land lessees and Indigenous parties for an area to enter into either an Indigenous Access and Use Agreement ('IAUA') or an Indigenous Land Use Agreement ('ILUA') which supports Indigenous access to State rural leasehold land for traditional purposes and enabling the lessee to seek a longer lease term or an extension to their lease term. As an additional incentive, the Bill introduces a five year 25 per cent rental concession for eligible State rural leasehold land lessees who enter into an IAUA or an ILUA to not be a respondent party in a native claim over the leasehold land, and to pay for public liability insurance under the IAUA or ILUA. The inclusion of these amendments in the Bill provides certainty for rural leasehold land lessees and Indigenous Queenslanders in relation to access and use of rural leasehold land for traditional purposes, and assists in the more timely resolution of native title claims.[92]

The committee attaches importance to consultation with Aboriginal and Torres Strait Islander People, particularly in relation to policies and legislation that will impact on them more than other people. We note the explanatory notes for the Bill do not indicate any consultation occurred on clause 85 regarding the 'land management agreement for rural leases' amendment to the *Land Act 1994*.

[92] Explanatory Notes, Land, Water and Other Legislation Amendment Bill 2013, pp.3-4.

The committee further noted the absence of consultation with Torres Strait Islanders on amendments in Part 17 to the *Torres Strait Islander Land Act 1991.* On the basis of information provided to date, this lack of consultation does not appear to have sufficient regard for Aboriginal tradition and Island custom.

Request for advice

The committee sought the department's advice as to whether the department had given due regard to Aboriginal tradition and Torres Strait Islander custom in its consultation processes for this Bill, particularly in relation to those amendments that would impact on Aboriginal and Torres Strait Islander people more than other people.

DNRM advice

> *The amendment under clause 85 does not directly impact on Aboriginal and Torres Strait Islander people. Only eligible lessees may apply: (a) to register an Indigenous cultural interest; and (b) for the limited rental discount under section 188A of the Land Act 1994. Access and use agreements (to which the rental discount applies); their registration on title as Indigenous cultural interests; the lessee withdrawing from the native title process and paying for public liability insurance under the terms of the agreement; and applications for the rental discount are all voluntary.*
>
> *The amendment under clause 85 simply reflects amendments made to the land area threshold for State Rural Leasehold Land leases which has increased from 100 to 1 000 hectares. The amendment does not prevent access and use agreements from being negotiated outside the scope of the State Rural Leasehold Land Strategy to which section 188A applies.*

Committee comment

The committee is satisfied with the department's advice.

Scrutiny of the Legislative Assembly

Section 4(4)(b) *Legislative Standards Act 1992* – Does the bill sufficiently subject the exercise of a proposed delegated legislative power (instrument) to the scrutiny of the Legislative Assembly?

Clause 230
Postponement of a water resource plan

Proposed new section 52B provides an opportunity for the Legislative Assembly to have input into the extension of a water resource plan in that a gazette notice extending a water resource plan is subordinate legislation which may be disallowed. However, it would be preferable if extension of a water resource plan was done by amending the water resource plan itself rather than by a separate gazette notice. This method has the added advantage that it would be possible to work out the expiry date of the water resource plan by looking at the plan itself, rather than referring to the gazette notice. This would make it easier for people affected by the water resource plan to know when it expires. It is noted that current water resource plans do not specify a date of expiry, as this is subject to extension by the *Statutory Instruments Regulation 2012*.

Request for advice

The committee sought advice from the department as to the reasons why clause 230 provides for water resource plans to be amended by gazette notices rather than by amending the plans themselves.

DNRM advice

The Department considers that the process prescribed in clause 230 of the Bill (new section 52B) is sufficient to inform relevant water entitlement holders in the water resource plan area of the new expiry date of a water resource plan, particularly in comparison to the existing process under the Statutory Instruments Act 1992 which is used to extend the expiry date of subordinate legislation.

Under the current process in the Statutory Instruments Act 1992, the Statutory Instruments Regulation 2012 is amended to prescribe the new expiry date of subordinate legislation (including water resource plans) that has been exempted from expiry. There is no public consultation on this extension. As such, for a person to find the new expiry date of a water resource plan, they must refer to the Office of the Queensland Parliamentary Counsel's website to find the new expiry date of a water resource plan that has been extended in the Statutory Instruments Regulation 2012.

By way of contrast, the proposed new process is much more informative to the public. It requires that the Minister publish a notice stating the Minister's intention to postpone the expiry of a water resource plan, the proposed new expiry date for the plan and call for submissions on that proposal. This notice is published in the relevant plan area. Local governments (in the plan area) are also required to make such a notice available for inspection by the public.

If the Minister decides to postpone the expiry, the Minister must publish a notice in the gazette stating the new expiry date for the plan. Clause 230 (new section 52B(9)) provides that this notice is declared to be subordinate legislation. As such, the notice will be drafted by the Office of the Queensland Parliamentary Counsel and published on its website. To be clear, the gazette notice does not amend the plan, as water resource plans do not currently state an expiry date, but rather provides for the new expiry date of the plan.

As such, the Department considers this process is sufficient to notify the affected water entitlement holders that the plan may be postponed, and once postponed is consistent with the current process of locating the extended expiry date of a water resource plan – on the Office of the Queensland Parliamentary Counsel's website.

In addition, were the Department is to amend a water resource plan to state the new expiry date for the plan, the process prescribed in section 56 of the Water Act 2000 would need to be followed to amend the plan. This is a particularly onerous process as it requires preparing an overview report of the amending plan and publishing a draft of the proposed amending plan and calling for submissions on the plan (thereby opening the whole plan up for review). The amendment process in the Water Act 2000 prescribes the purposes for which a water resource plan may be amended and is focused on water allocation and sustainable management, not amending a water resource plan to provide for the expiry date of a plan.

Committee comment

The committee is satisfied with the department's advice.

Clear and precise

Section 4(3)(k) *Legislative Standards Act 1992* – Is the bill unambiguous and drafted in a sufficiently clear and precise way?

Clauses 28 & 287
Easement

Clause 28 inserts new section 15. Proposed new section 15(3)(c)(iii) states 'if the land is an easement'. This would seem to be technically incorrect. At common law, an easement is a right with respect to land. Therefore it is not possible for land to *be* an easement.

Grid customer

Clause 287 appears to be ambiguous in that it is not clear whether the grid customer is Tarong Energy Corporation Limited or Stanwell Corporation Limited.

Request for advice

The committee sought the department's advice as to whether clauses 28 and 287 are unambiguous and drafted in a significantly clear and precise way.

DNRM advice

Easement

The committee is correct in its general statement that "At common law, an easement is a right with respect to land. Therefore it is not possible for land to be an easement". However, reference to an easement in land in the amendment conforms with use of reference to easements as a form of land in the Acquisition of Land Act 1967 (ALA).

This matter may be resolved if attention is drawn to section 6(1) ALA which states:

When for any purpose it is not necessary that the constructing authority should take the whole estate in any land, but it is sufficient for such purpose to take an easement, the constructing authority may take such easement only and for that purpose the provisions of this Act shall apply as if the easement were land.

For the purposes of acquisition, the ALA treats an easement as a form of land (the name of the Act itself relates to the acquisition of "land"). For this reason section 12 refers to "land". If an easement is acquired, section 12(1)(a) would be read: "Subject to subsection (4), [an easement] taken by gazette resumption notice...shall vest, according as the notice prescribes, [in the constructing authority] which acquires the [easement] on and from the date of the publication in the gazette of the notice". Section 12(5) acknowledges the "land" taken and vested in the constructed authority may be an easement.

Reference in proposed section 15(3)(c)(iii) to an easement as (a form of) land conforms with use of that 'concept' throughout the rest of the ALA. The concept is used only to best achieve the purpose of the Act (nothing more). Once acquired, the easement remains a right with respect to land. Taking into account the definition for estate and interest under section 36 of the Acts Interpretation Act 1965, an acquired easement is both an estate and an interest in relation to land.

Changing the amendment to reflect the common law would require numerous amendments to the ALA. This would best be undertaken during a broader review of the ALA in the future.

Grid customer

Advice from the Office of Queensland Parliamentary Counsel was provided at the time of drafting that current drafting practice is to ensure substantive amendments are not made to transitional provisions unless absolutely necessary. The reason for this practice is that transitional provisions are created for a particular purpose with a limited life, and are retained as a historical record.

In the instance of clause 287 amending section 1162, it is relevant that Tarong Energy Corporation was nominated as a grid customer at the commencement of the section. If the reference to Tarong Energy Corporation was replaced with a reference to Stanwell Corporation Limited, it would indicate on face value the misleading impression that Stanwell Corporation Limited had been nominated as a grid customer at the commencement of section 1162.

Therefore the proposed note has been inserted to provide the reader with information as to Tarong Energy Corporation's status as a grid customer without obscuring the historical record.

Committee comment

The committee is satisfied with the department's advice.

Appendix A – List of submitters

1. Pioneer Valley Water Board
2. Wildlife Preservation Society of Queensland
3. Queensland Conservation
4. Queensland Resources Council
5. Herbert River Improvement Trust
6. SEQ Catchments Limited
7. Bridgeport Energy Limited
8. Cape York Land Council Aboriginal Corporation
9. Powerlink Queensland
10. SunWater Limited
11. Queensland Farmers' Federation
12. Origin Energy Resources Limited
13. Great Barrier Reef Marine Park Authority
14. WWF Australia
15. Ergon Energy Corporation Limited
16. Healthy Waterways
17. Dr Geoff Edwards
18. AgForce Queensland
19. Capricorn Conservation Council

Appendix B – Briefing officers and hearing witnesses

Public Briefing officers – 20 March 2013

Department of Natural Resources and Mines

Ms Jennifer Armstrong, Principal Project Officer, Land and Vegetation Management Policy

Mr Ken Carse, Principal Policy Advisor, Strategic Policy Branch, Aboriginal and Torres Strait Islander Land Services Division

Ms Wendy Chan, Policy Officer, Strategic Water Policy

Ms Samantha Laurie, Manager, Legislative Support

Ms Michelle Marrinon, Team Leader, Water and Sewerage Policy

Mr Stephen Matheson, Chief Inspector, Petroleum and Gas

Ms Kate McPherson, Senior Policy Officer, Strategic Water Policy

Mr Rex Meadowcroft, Director, Legislative Support

Ms Belinda Micock, Principal Policy Officer, Vegetation and Land Management

Ms Margaret Morgan, Manager, Property Services

Mr Joe Piccini, Principal Advisor, Valuations Policy, State Valuations

Mr Dave Ralph, Petroleum Registrar

Ms Marie Vidas, Manager, Titles Policy and Legislation

Department of Energy and Water Supply

Ms Jemima Neisler, Legislation Officer, Legislative Services

Ms Kate Peters, Director, Urban Institutional Arrangements and Reform

Public Briefing officers – 12 April 2013

Department of Natural Resources and Mines

Mr Lyall Hinrichsen, Executive Director, Water Policy

Mr Rex Meadowcroft, Director, Legislative Support

Mr Steve Sheppard, Principal Policy Officer, Land and Mines Policy

Mr David Ralph, Petroleum Registrar

Ms Margaret Morgan, Manager, Property Services, Government Land Acquisitions

Ms Judith Jensen, Executive Director, Aboriginal and Torres Strait Islander Services

Mr David Sharp, A/Deputy Chief Inspector (Upstream)

Ms Belinda Micock, Principal Policy Officer

Public Hearing witnesses – 12 April 2013

Mr Simon Warner – SEQ Catchments

Mr Paul McDonald – SEQ Catchments

Mr Sean Hoobin – WWF Australia

Mr Nigel Parratt – Queensland Conservation

Dr David Wachenfeld – Great Barrier Reef Marine Park Authority

Mr Leigh Gray – Great Barrier Reef Marine Park Authority

Mr Graeme Finlayson – Ergon Energy Corporation Limited

Mr Ian Johnson – Queensland Farmers' Federation

Dr Dale Miller – Agforce Queensland

Appendix C – Summary of submissions

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
		Consultation issues and general comments		
na	9. Powerlink Queensland		Powerlink submits that "…as noted in our introduction, we have had extensive discussions with DNRM about the amendments to the Acquisition of Land Act (ALA), however, we have not reached a satisfactory position that is consistent with the scope of the proposed review and policy direction and which won't delay the delivery of electricity infrastructure. We have not discussed the effect of the amendments to the Water Act with DNRM at this stage, but would welcome the opportunity to do so."(Sub 9, p.4)	At the current time, the intention is to shorten the compulsory acquisition process in simple or straightforward matters only. These matters are effectively where no objections are received by a constructing authority such as Powerlink or Ergon Energy. In other cases, it is not intended to change the process whereby the Minister considers an application which is received from a constructing authority and then referred to the Governor in Council. The compulsory acquisition of land is considered a necessary but significant undertaking by government. The Department assesses all applications for resumption by constructing authorities to ensure the application is properly made, compliant with the ALA and appropriate for forwarding to the Minister for consideration and then to the Governor in Council. The application of natural justice or procedural fairness is paramount for all acquisition cases and the Department is very conscious of the need for this to be extended to all persons affected by an action under the ALA. The referral to the Governor in Council adds another tier to the integrity of this process particularly in matters which are not considered to be straightforward.
na	14. WWF – Australia		The WWF submits that "…the Bill proposes amendments to implement a broad range of significant policy changes, with very short periods for public consultation. It would have been preferable to publicly consult on proposed policy changes first, and then consult on draft provisions. One case in point is the proposed	The Department notes the comments in regard to the period and process for public consultation.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			amendments to Riverine Protection Permits which this section focuses on. These changes are presented as low risk and administrative but are in fact a significant reduction in the protection of vegetated waterways and wetlands, and will have far reaching economic and environmental impacts. The scale of the effect of the proposed amendments needs to be fully calculated, and then the consequences properly assessed. The Bill and associated information does not provide the depth of information needed for such a calculation and assessment of impact." (Sub 14, p.1)	
na	17. Dr Geoff Edwards	"Public interest" as a justification is missing	Dr Edwards submits that "'…the justification for the amendments in many or most cases is presented as streamlining for the benefit of the mining or gas tenure holder / landholder / applicant. Nowhere in the paper(s) [explaining the reasons for the amendments] is the public interest presented as the guiding force to drive the amendments. Yes, it is in the public interest for the tenure and regulatory regimes to be efficient and simple, but that does not seem to be the justification for these changes. Many or most of these regulatory provisions were originally crafted in order to protect the public interest from the unintended consequences of imprudent development or resource extraction. To remove these protections requires a modern analysis grounded in consideration of the public interest, not applicants' interest." (Sub 17, p.1)	The Department thanks Dr Edwards for his submission and the department notes his views. However, the Bill is drafted consistent with the government's policy position for these areas.
na	17. Dr Geoff Edwards	Removing some pillars without strengthening the remainder	Dr Edwards submits that "…the second concern is that each of the legislative regimes was crafted within a statutory context of the other statutes. One cannot now remove one and pretend that another piece of legislation dealing with the same subject will adequately cover the purpose of the first. For example, the origins of the vegetation protection legislation and the Water Act prohibition on interfering with vegetation in a watercourse were very different and separated in time. It is not valid to argue that because there is an apparent overlap, one can now remove the other and still have the same coverage for this dual purposes. For another example, the Sustainable Planning Act was not designed to achieve NRM objectives; the government of the day in 1997 opted to exclude them because of their coverage in the natural resource legislation. For another example, to revoke provisions in the Water Act on the grounds that there is a parallel power in the Environmental Protection Act is invalid unless the scope of that Act is adequate, the environmental protection regime is fully resourced and legacy responsibilities are adequately covered. In several cases, the explanatory materials do not describe how the remaining regime will be amended to ensure that the intent of the overlapping regime will now be achieved." (Sub 17, p.1)	The legislative amendments in the Bill have been developed to meet the Government's commitment to reduce red tape on business and the community. In developing amendments, the Department has fully considered the implications of removing provisions from *Water Act 2000* and has assessed whether the alternative arrangements effectively meet the policy objectives of the current Government. For example, in developing the amendment to remove the requirement for a riverine protection permit to destroy vegetation the department considered the existing regulatory framework and identified that a person undertaking vegetation clearing in a watercourse, lake or spring is required to consider the requirements of two different frameworks – the *Water Act 2000*, and the *Vegetation Management Act 1999* in conjunction with the *Sustainable Planning Act 2009*. Although in most cases the two frameworks work together, a person may be required to obtain both a riverine protection permit and a vegetation clearing permit. The amendment will simplify the approval

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				process for landholders so that only one regulatory framework (the *Vegetation Management Act* 1999 and the *Sustainable Planning Act* 2009 will apply).
na	17. Dr Geoff Edwards	Environmental regulation exists to protect the environment	Dr Edwards submits that "…the third point is that nowhere in the materials does the protection of the natural resources and environment appear to be a motivating force. The entire purpose of resource and environmental regulation is to protect the public interest in natural resources and the environment. Natural resources are the foundation of all economic and business activity. Laws to protect them from waste and to ensure fair access by all stakeholders are very much in the economic interests of Queensland." (Sub 17, p.2)	The issue as raised by Dr Edwards, e.g. environmental regulation to protect the environment, falls under the *Environmental Protection Act 1994*. The purpose of the *Environmental Protection Act 1994* is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development). The Bill does not amend this Act.
na	17. Dr Geoff Edwards		Dr Edwards recommends "…that the Committee send the bill back to the Government to start from two foundations: the public interest and resource/ environment protection; and to recraft the provisions with those very different objectives centre of mind." (sub 16, p.2)	The Department thanks Dr Edwards for his submission and the department notes his views. However, the Bill is drafted consistent with the government's policy position for these areas.
		Part 2 Amendment of Aboriginal Land Act 1991		
	6. SEQ Catchments		SEQ catchments supports the proposed amendments as they simplify a number of processes which will gain efficiencies while still maintaining indigenous peoples' interests. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
3-21	8. Cape York Land Council		CYLC submits that it "…supports the proposed amendments to:- • simplify dealings with reserves and roads on Aboriginal freehold land ("ALA land"), by removing the requirement for the intermediate step of creating transferable land; • put it beyond doubt that a sublease entered into under the *Aurukun and Mornington Shire Leases Act 1978* continues in force upon the transfer of the Shire lease land under the ALA. (CYLC has previously made submissions to government concerning appropriate tenure for land within Cape York township areas and notes that land used for residential or commercial purposes should ultimately become freehold land, including any pre-existing sublease); • to make Starcke National Park transferable land, instead of claimable land (so that it is consistent with all other parks in the Cape York region); and • give land trusts the power to appoint, remove or suspend members of the land trust. However, CYLC has concerns about the proposed amendment to allow the	The Department thanks the CYLC for their support of the proposed amendments and note their concerns about the Minister's ability to remove or suspend a land trust member. Firstly, the legislation already provides for the Minister to appoint, suspend or remove land trust members. Secondly, the amendments make it easier for land trusts to appoint, suspend, or if necessary, remove members by providing them with the powers to do so, thus avoiding the need for each and every land trust to adopt such rules. Thirdly, as pointed out in CYLC's submission, the proposed new powers for land trusts to appoint,

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			Minister, if the Minister forms a view that the actions of a member of the land trust is hindering the proper operation of the land trust and the Minister is satisfied that grounds exist for removing or suspending the member, to remove a member. The amendments to give the land trust the power to take action in appropriate circumstances should be adequate for appropriate action to be taken, without the need for ministerial intervention into the operation of a land trust. CYLC recommends the establishment of a regional support body for land trusts and other Aboriginal land-holding organisations which would have a wide range of support, advice and executive roles, including to assist with and provide advice about corporate governance and similar issues. Such a regional body could also hold a "power of attorney" to make decisions on behalf of local organisations in the case of local dysfunction which would provide an alternative to the proposed Ministerial power."(Sub 8, p.2)	suspend or remove members should be adequate and negate the need for Ministerial intervention. However, there have been circumstances where a land trust has not been able to make decisions – for example where they can not form a quorum. In this situation the Minister would be able to appoint new members to the land trust so it can once again operate on its own. The intent of the new provisions is that the land trust will manage its own affairs with regard to appointments, suspensions and, if necessary, the removal of a member. There are a range of safe guards built into the legislation, such as: • the provision of a show cause notice – which detail the action proposed to be taken and provide for the person to respond; • an information notice, detailing the decision taken, the reason for it and that the person has 28 days to appeal the decision to the Land Court. Further, immediate suspensions are time limited and if no further action is taken the immediate suspension is lifted after 60 days. We note the CYLC's support for the establishment of a regional support body for land trusts that could hold a power of attorney to make decisions on behalf of land trusts in the case of dysfunction as an alternative to the current Ministerial powers. The proposed amendments provide the necessary powers and safeguards with respect to appointing, suspending or removing land trust members – the establishment of any alternative bodies would be a policy consideration for the Government.
		Part 3 Amendment of Acquisition of Land Act 1967		

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
22-33	6. SEQ Catchments		SEQ catchments supports the proposed amendments as the provisions for streamlining the taking of land by agreement and improved delegation provisions will enhance the Act's effectiveness. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
22-33	8. Cape York Land Council		CYLC notes that the proposed amendments to shorten acquisition processes in cases where the parties do not object, do not apply to the taking of land if that land includes "Aboriginal or Torres Strait interests". "Aboriginal or Torres Strait Islander interests" exist if native title rights and interests exist for the land, or the land is Aboriginal land or transferable land under the Acquisition of Land Act (ALA). CYLC assumes that the reference to the existence of native title rights and interests would include land where native title rights and interests are asserted but not yet recognised.(Sub 8, pp. 2-3)	If native title has not been extinguished over land where there is to be future use, then native title is assumed to exist and must be appropriately dealt with. For example this could be by way of the compulsory acquisition of the native title rights and interests or by way of an indigenous land use agreement. This applies where native title rights and interests are asserted but not yet recognised. The proposed amendments clarify that there is no change to the current process for the compulsory taking of native title rights and interests in relation to land and also for the taking of land that is Aboriginal land or transferable land under the *Aboriginal Land Act 1991* or land that is Torres Strait Islander land or transferable land under the *Torres Strait Islander Land Act 1991*. The shortened acquisition processes do not apply to these types of acquisitions.
22-33	9. Powerlink Queensland		Powerlink submits that "…the proposed amendments (as currently drafted), may jeopardise certain rights that Powerlink is entitled to which already streamline its operations and improve the delivery of its services to Queensland. Powerlink has two issues of principal concern, namely: (1) The potential loss of an exemption for the taking of protected plants; (2) Limited application of the expedited process to Powerlink. Potential Loss of Exemption Specifically, Powerlink currently utilises an exemption with respect to the taking of protected plants as a result of authorisation by the Governor in Council (pursuant to the *Nature Conservation Act 1992* (Qld) and Section 41(1)(a)(i) of the *Nature Conservation (Protected Plants) Conservation Plan 2000* (Qld)). Section 9 of the ALA (in conjunction with sections 7 and 8) currently prescribes the process that Powerlink must observe in resuming land. In summary it involves an application to the relevant Minister (section 9(2)) followed by a declaration by gazette notice by the Governor in Council (section 9(7)). The proposed section 9(7A) provides that 'the Minister may' (emphasis added) make declarations (rather than the Governor in Council) in certain circumstances that may impact upon Powerlink's operations. In summary, these are: (1) where no objections have been received (proposed section 9(7A)(a)); or (2) if the land is being taken for a multi-parcel purpose and no objections have been received (proposed section 9(7A)(b)).	<u>Potential Loss of exemption</u> The Department understands that Powelink's exemption with respect to the taking of protected plants only applies where authorisation is given by the Governor-in-Council. The amendments in this Bill provide for authorisation by the Minister. It is considered that Powerlink's concern about the possible loss of the exemption may be dealt with administratively. A request may be made by Powerlink that the Minister considers the application and refers it to the Governor in Council in certain relevant situations in lieu of the shortened process. The current processes whereby an application is referred to the Governor in Council will continue to apply and the exemption can still be utilized by Powerlink. <u>Limited application of the expedited process</u> The ALA currently requires that a constructing authority deal with objections, that an objection be

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			Should the Minister make a declaration, the Section 41(1)(a)(i) exemption would not be available to Powerlink. Powerlink has been advised that this concern (the loss of the exemption) will be addressed by the development of a self-assessable Code for the taking of protected plants by DEHP by 2014. There may be a period between the commencement of the ALA amendments and the adoption of the Code in 2014 when the exemption referred to [above] may not be available to Powerlink. Powerlink has been further advised by DNRM that until the codes are adopted, DNRM would favourably consider any request from Powerlink to have the land resumed by the Governor in Council by Gazette Notice. Powerlink's support for these amendments is subject to these assurances by DEHP and DNRM. Limited Application of the Expedited Process to Powerlink Powerlink understands that DNRM's policy position is that the expedited procedure under the ALA should not apply where objections are raised along the particular corridor that might impact upon the location of the corridor and the Minister's approval of the taking of the relevant land. However, in practice, this is likely to mean that the expedited procedure will very rarely be available to Powerlink (if at all). Therefore, in order to balance DNRM's position with Powerlink's concerns, Powerlink considers that it is important to focus on the nature of the objections to carve out those objections that are not made within time and/or are solely based on matters relating to compensation. This is consistent with the ALA. Further, Powerlink suggests that the expedited procedure be available to Powerlink in circumstances where an objection is made and Powerlink has heard and considered all objections but decided that it is still appropriate to take the subject land. This gives the Minister comfort that a sufficient part of the process has been undertaken and objections have been dealt with under the ALA but allows Powerlink to take advantage of the expedited procedure (albeit at a later stage than it had hoped). Therefore Powerlink proposes the following amendment to the Bill: *(7A) Without limiting subsection (7), the Minister may, by gazette notice, declare that the land particularised in the notice is taken for the purpose mentioned in the notice if.* *a) no objections were received in response to the notice of intention to resume the land,* *b) if the land is being taken for a corridor purpose:* *a. no objections were received in response to a notice of intention to resume any of the land required to be taken to carry out the corridor purpose; or* *b. if objections were received in response to a notice of intention to resume any of the land required to be taken to carry out the corridor purpose, the constructing authority has dealt with such objections in accordance with section 8 and, after due consideration of the objections, is of the opinion that the land in question is required for the purpose for which it is proposed to be taken.* *(7B) For the purposes of subsection (7A), the objection must:* *a) be served upon the constructing authority within the time specified in the notice of intention to resume; and* *b) not solely pertain to the amount or payment of compensation".* (Sub 9, pp.1-3)	served on or before the date specified in the notice of intention to resume and that the amount or payment of compensation is not a ground of objection. Whether or not an objection relates solely to the amount of compensation is not always a straightforward matter. The intention is to shorten the compulsory acquisition process in simple or straightforward matters only. These matters are effectively where no objections are received by a constructing authority such as Powerlink .

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
22-33	9. Powerlink Queensland		Powerlink submits that "…there is also a practical issue which we wish to raise. Powerlink's corridors are usually many kilometres long and often traverse a large number of properties. It would be highly unusual for Powerlink not to receive some objections from owners over a long corridor. Powerlink has two options in this situation, namely: (1) Delay - to delay making any request for the resumption of any easements until the objection process for properties along the corridor has been fully completed; or (2) Part Application - to first make a request to the Department for the resumption of easements over all properties which are not the subject of objections and to follow up with the balance of the properties once the objection process is complete. This approach allows the Department to receive the material and process those applications at least to the point of Gazettal. The advantage of the Part Application process is that time is not lost and although the finalisation of all easements will not occur until all applications for the whole of the corridor are made it allows for an effective use of time and resources. Powerlink requests confirmation that the Committee supports this approach to ensure the timely delivery of transmission infrastructure". (Sub 9, p.3)	Corridors involve large distances and invariably objections. They are not considered straightforward matters which the amending legislation is intended to cover.
23-25, 28	15. Ergon Energy	Introduction of a concept of a "Multi-parcel purpose"	Ergon submits that "…the Bill proposes to introduce a concept of a "multi-parcel purpose". This is defined as: *Land is taken under this Act for a multi-parcel purpose if, to carry out the particular purpose for which the land is taken, it is necessary to take, under this Act, more than 1 parcel of land. Examples of multi-parcel purposes—* *roads and railways for which it is necessary to take, under this Act, more than 1 parcel of land* By virtue of section 6 of the ALA, this definition captures easement compulsory acquisitions for electricity lines where more than one parcel of land is to be compulsorily acquired. The Bill proposes simplified processes for taking land by giving some powers to the Minister (or its delegate) and to a network service provider, such as Ergon Energy or Powerlink, to publish a gazette notice taking the land (i.e. not requiring the Governor in Council to do so). These powers arise, effectively, when the acquisition is not objected to. However, the proposed amendments (as currently drafted) may benefit from further refinement to ensure the proposal to streamline existing processes under the expedited procedure does not unintentionally jeopardise the ability of distribution and transmission network service providers to acquire corridors to further improve the efficient delivery of their services to Queensland. Ergon Energy understands that the current departmental policy position is that the expedited procedure under the ALA should not apply where objections are raised along the particular corridor that might impact upon the location of the corridor and the Minister's approval of the taking of the relevant land. In practice, therefore, the expedited procedure is unlikely to be readily available to electricity network service providers seeking to make corridor-level acquisitions that span many kilometres and cover a large number of properties as it would be unusual not to receive some objections from owners	The intention is to shorten the compulsory acquisition process in simple or straightforward matters only. These matters are effectively where no objections are received by a constructing authority such as Ergon Energy.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			across a long corridor. In order to balance the current policy position with the concerns of owners and network service providers, Ergon Energy suggests that consideration be given to refining the current drafting so that the expedited procedure can be available to network service providers for corridor purposes in circumstances where an objection is made and the applicable network service provider has heard and considered all objections in accordance with the ALS but decided that it is still appropriate to take the subject land. Ergon Energy submits that such an approach would give the Minister comfort that a sufficient part of the process has been undertaken and objections have been dealt with under the ALA but allows network service providers to take advantage of the expedited process." (Sub 15, pp.1-2)	
		Part 4 Amendment of Cape York Peninsula Heritage Act 2007		
34-35	6. SEQ Catchments		SEQ Catchments support the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
35	8. Cape York Land Council	Amendment of s 7 (Meaning of *Cape York Peninsula Region*)	The Cape York land Council "…supports the proposed amendment to section 7, which will effectively include the eastern Kuku Yalanji national parks in the Cape York peninsula region. The amendments should eventually allow the current longstanding Aboriginal land Act claim over Cedar Bay National Park to be withdrawn, rather than requiring a costly timer consuming claim process. CYLC also supports the proposal to allow for the map that defines the region to be revised from time to time by regulation, which would make it easier to adjust the boundaries of the region if that is required in future." (Sub 8, p.2)	The Department thanks the Cape York Land Council for their support of the proposed amendments.
		Part 5 Amendment of City of Brisbane Act 2010		
36	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
		Part 6 Amendment of Foreign Ownership of Land Register Act 1988		
38-41	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
		Part 7 Amendment of Land Act 1994		
92-109	6. SEQ Catchments		SEQ Catchments submits that the improvements to the application process for leases, licences and permits are welcome and bring the application process more into line with contemporary practice. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
42-149	8. Cape York Land Council		"CYLC is concerned about potential impacts on environmental and cultural heritage values, and associated lost opportunities for engagement in land management and conservation services. We therefore do not support the proposed amendments to:-	With regards to impacts on environmental and cultural heritage values, lessees have a duty of care under the *Land Act 1994* (s.199) to conserve biodiversity and cultural heritage values on State land that they lease,

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			• Repeal the "future conservation area" provisions, and provide for the Qld Government to stand in the market place independent of the lease renewal process to negotiate purchase of part or all of the lease, if a leasehold property is identified as a priority for adding to the conservation estate. It is likely that less traditional land in Cape York will become conservation estate, potentially resulting in degradation of land and loss of cultural heritage and traditional use opportunities; • increase the land area threshold for land management agreements under the State Rural Leasehold Land Strategy from 100 hectares to 1000 hectares (notwithstanding the provision for the Minister to require a land management agreement for rural leasehold land where the land is vulnerable to land degradation or there are demonstrated land degradation issues requiring remediation). The proposed amendments are likely to result in poor land management and degradation of country, by moving from proactive to reactive management. The amendments also potentially decrease economic opportunities for Traditional Owners to provide land management services."(Sub 8, p.3)	irrespective of both the repeal of the Future Conservation Area provisions and outcomes under an assessment for conservation purposes. In addition, holders of State Rural Leasehold Land leases must enter into a land management agreement at lease renewal. This agreement assists lessees meet their duty of care obligations by identifying agreed measures the lessee must take to sustainably manage the lease, including by protecting any identified significant natural environmental and cultural heritage values on the lease land. Clause 78 of the Bill also provides the Minister with powers to require a land management agreement for a term or perpetual lease for rural leasehold land, where the lease is not subject to a condition that a land management agreement must be entered into for the lease land, if the Minister is satisfied—the lease land suffers from, or is at risk of, land degradation; or the lessee is using the lease land in a way that is not fulfilling their *Land Act 1994* duty of care for the land. This provision retains the capacity to act proactively to ensure good land management of small rural leases, allowing attention to be focussed on leases at risk or in known problem areas. With regards to traditional use opportunities, the *Land Act 1994* currently includes other provisions relating to lease terms, lease extensions and rental discount to encourage lessees to negotiate agreements with Indigenous people for access to and use of rural leasehold land for traditional activities.
67-68 72-73 86 109	13. Great Barrier Reef Marine Park Authority	Future Conservation Area provisions	GBRPA submits that "…the Future Conservation Area provision (which allows the reservation of rural leasehold land and its acquisition in the future for the protected area estate at the time the lease is renewed) be retained as a tool to assist the Queensland Government to protect ecosystem functions that may be critical for the health of the Great Barrier Reef." (Sub 13, p.1)	The administrative arrangement which will be in place still allows the Department of Environment and Heritage Protection to assess conservation values on rural leasehold land at any time during the term of a lease (rather than at lease renewal) and to negotiate a purchase price with the lessee if a decision is made to buy all or part of the lease land for conservation purposes.

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				In addition, land management agreements under the *Land Act 1994* remain as a tool to assist with the sustainable management of rural leasehold land, contributing towards the protection of ecosystem functions that may be critical for the health of the Great Barrier Reef.
67-68 72-73 86 109	14. WWF - Australia	Future Conservation Area provisions	WWF submits that "…the Land Act is extremely complex and WWF supports streamlining to the extent it improves or maintains environmental outcomes. The proposed amendments are opposed because they are highly likely to worsen environmental outcomes. Specifically WWF opposes the removal of sections 159 (2) and (3) and Chapter 5, part IA Future Conservation Areas (FCA). The justification provided for these amendments is invalid, because these provisions have not been acted on does not mean the provisions are not needed. Rather the lack of implementation may simply reflect the failure of Chief Executives to properly and fully discharge their responsibilities under Sect 159 (1) to: *.. consider the following before deciding whether or not to offer a new lease, the conditions of the offer or the imposed conditions of the new lease ...* *(d) whether part of the lease land is needed for environmental or nature conservation purposes;* *(h) whether part of the lease land has a more appropriate use from a land planning perspective;* *(i) whether part of the lease land is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like issues make it special;* *(o) the natural environmental values of the lease land.* It is a fundamental purpose of the Land Act to determine highest and best use of state land. In some cases this will be pastoral production, in others nature conservation. It is critical that the Nature Conservation Act administering agency have a formal role in helping the Chief Executive for the Land Act decide on section 159 factors. Removal of that role as proposed by the pending amendments undermines the purposes of the Land Act. The amendments of the Delbessie Agreement- a tripartite agreement between the Conservation Sector, AgForce and Government- was designed to make implementation of sect 159 much easier on the lessee. Under sect 159 as it stands, the Chief Executive could after considering the factors (d) (h) (i) or (o) simply decide not to reissue the lease and instead transfer it directly to national park or other NCA tenure. Under the Delbessie Amendments however, a less radical path was mapped out. First the Chief Executive could decide on factor (d) only on recommendations from the NCA administering agency. Second the Chief Executive even if deciding to not renew the lease based on factor (d) could nonetheless still offer the lessee a new fixed term lease of 30 years, but conditioned so that it was clear that after 30 years, there would be no further renewals, and that in the interim it would have to be managed to a higher standard appropriate to the FCA status. It bears re-stating that the Delbessie amendment was introduced to make it easier on the lessee by	Although the Future Conservation Area provisions were intended to be a 30-year transition from lease to protected area for identified leases, the provisions have in reality created much uncertainty for holders of rural leasehold land in general about the future of their leases at lease renewal. While the amendments alter the process for identifying areas for conservation purposes, they do not alter the role of the Nature Conservation Act administering agency in determining whether the highest and best use of state land is nature conservation. The administrative arrangement which will be in place still allows the Department of Environment and Heritage Protection to assess conservation values on rural leasehold land at any time during the term of a lease (rather than at lease renewal) and to negotiate a purchase price with the lessee if a decision is made to buy all or part of the lease land for conservation purposes.

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			allowing a 30 year transition from lease to protected area." (Sub 14, pp.3-4)	
67-68 72-73 86 109	18. AgForce Queensland	Future conservation area provisions	AgForce submits that "…the Future Conservation Areas (FCA) policy implemented in 2008 has created enormous angst amongst lessees by providing a power to allow the environment department to not renew leases on some of the best cared for areas of leasehold estate. AgForce has always maintained that properties that are identified for future conservation purposes should be paid for by the government on the open market and so supports this move to provide more certainty for lessees." (Sub 18,p.7)	The Department thanks AgForce for their support of the proposed amendments.
69	14. WWF-Australia	Amendment of s 160A (land management agreement condition for particular offers)	"WWF likewise opposes the raising of the 100ha threshold for condition assessments and land management agreements to 1000ha. It is precisely the small leases that are most at risk of degradation because lessees on small leases, if that is all they have, face a more difficult time extracting a living out of the leases and may over-stock. Among many other such studies in the literature, Passmore and Brown (1992 Property Size and Rangeland Degradation in the Queensland Mulga Rangelands. The Rangeland Journa/14, 9-25. http://dx.doi.org/10.1071/RJ9920009 found a strong correlation between smaller property size, overstocking and degradation in the Mulga lands. If anything it should be smaller leases including 100ha leases, that are more closely monitored for degradation than larger leases. Moreover the removal of property build-up provisions also in the proposed amendments goes directly against the evidence of these and other studies. Property build-up should be a priority for government both to reduce the risk of degradation and reduce the administrative burden of dealing with so many small leases. One useful amendment might be lease consolidation whereby a single lessee holding many separate leasehold blocks be encouraged to aggregate them into a single lease agreement." (Sub 14, p.4)	Clause 78 of the Bill empowers the Minister to require a land management agreement for a term or perpetual lease for rural leasehold land, where the lease is not subject to a condition that a land management agreement must be entered into for the lease land, if the Minister is satisfied—the lease land suffers from, or is at risk of, land degradation; or the lessee is using the lease land in a way that is not fulfilling their duty of care for the land (s 199, *Land Act 1994*). This provision retains the capacity to act proactively to ensure good land management of small rural leases, allowing attention to be focussed on leases at risk or in known problem areas. In addition, the *Land Act 1994* provides for amalgamation of leases, with property build-up remaining possible.
74, 78, 106	13. Great Barrier Reef Marine Park Authority	Land management agreement for rural leases	GBRMPA submits that the property size thresholds relating to rural leasehold land affected by the State Rural Leasehold Strategy (Delbessie Agreement) should be retained. "The proposed changes will potentially affect a number of existing properties in the Great Barrier Reef catchment; the proposed change will mean that these properties will no longer have land management agreements or be assessed for land condition, potentially impacting on the Great Barrier Reef through reduced water quality." (Sub 13, p.1)	Clause 78 of the Bill empowers the Minister to require a land management agreement for a term or perpetual lease for rural leasehold land, where the lease is not subject to a condition that a land management agreement must be entered into for the lease land, if the Minister is satisfied—the lease land suffers from, or is at risk of, land degradation; or the lessee is using the lease land in a way that is not fulfilling their duty of care for the land (s. 199, *Land Act 1994*). This provision retains the capacity to act proactively to ensure good land management of small rural leases, allowing attention to be focussed on leases at risk or in known problem areas.
	18. AgForce Queensland	Land management agreement	AgForce submits that "…on the basis of improved cost and time efficiencies,	Noted. The Department is willing to discuss with

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		for rural leases	AgForce is supportive of the move to increase the threshold size of properties requiring Land Management Agreements (LMAs) from 100 hectares to 1000 hectares. As the explanatory memoranda outlines however, the proposed amendment will result in the loss of lessee's ability to apply for a lease extension under Chapter 4, part 3, division 1B of the *Land Act 1994*. While this could be perceived as a negative by some lessees, AgForce believes that on the balance of things, greater benefit is incurred in not mandating LMAs and the cost and time efficiencies that this provides. Another proposed amendment will allow the Minister the discretion to require a land management agreement for rural leasehold land where - It is considered vulnerable to land degradation; - Where there are demonstrated land degradation issues which require remediation; or - Where the lessee is using the lease land in a way that is not fulfilling the lessee's duty of care for the land, under section 199. While AgForce appreciates that all landholders have an existing duty of care under the Act, AgForce seeks more discussion with the Department about practical examples of where this will provision might be enforced so as to provide certainty and surety to lessees." (Sub 18, p.7)	AgForce the practical application of clause 78.
100 109 120 125	15. Ergon Energy	Proposed changes to the definition of –'Public utility service provider'	Ergon submits that "…the Bill intends to amend the *Land Act 1994* and the *Land Title Act 1994* to expand the definition of 'public utility provider' to provide for two additional categories of public utility provider which are: - a person authorised under an Act to provide a particular public utility service; and - an entity approved by the Minister suitable to provide infrastructure for use by another entity in the provision of a particular public utility service. The summary of the changes proposed provides: Public utility easement provisions - The purpose of this amendment is to expand the definition of public utility provider to include service providers and owners of infrastructure. Similar amendments are being made to the *Land Title Act 1994*. - This amendment acknowledges that utility services have expanded from government entities to include co-operatives and private/ commercial entities. To facilitate operation of services provided by commercial entities, these entities need to be accepted legislatively as 'public utility providers'. - The amendments will overcome current legislative constraints by allowing public utility easements to be registered in favour of service providers and owners of infrastructure that may be used by service providers. Whilst there is no definition of 'public utility service', section 369(2) of the *Land Act 1994* (Qld) (with similar provisions in the *Land Title Act 1994* (Qld)) provides examples of what would constitute a public utility service. The term 'public utility service' by its very nature has the connotation that there	The services for which a public utility easement may be granted remain those listed under section 369(2) of the *Land Act 1994* and section 89(2) of the *Land Title Act 1994*. By amendment to the definition of public utility provider in *the Land Act 1994* and the *Land Title Act 1994*, co-operatives, commercial companies and other persons will be able to be recognised as a public utility provider under those Acts, for the purposes of dealing with public utility easements, provided they are authorised under a law to provide the service. To date, to meet the definition of 'public utility provider' has required a public utility service be provided to the public at large but changes in other legislation has necessitated this amendment. For example, if a special approval holder is authorised under the *Electricity Act 1994* to perform an activity normally authorised by a transmission authority, the special approval holder may require an 'easement in gross' that enables the holder to perform that activity.

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			must be a service provided to the public at large rather than for example a service being provided by a commercial entity which owns infrastructure to one person or other entity at a mine or other site upon which a commercial operation is being undertaken. That is the view taken by the relevant departments in past dealings. On that basis, the proposed expanded definition of 'public utility provider' may not allow for the scenario where an entity may be approved by the Minister to provide a public utility service but fails to provide the service to the public at large by nature of or the use of the word 'public' in the term 'public utility service'. Review of the explanatory memorandum and the summary seems to indicate that this interpretation is not the intention of the legislative amendments but this could be made clearer. For example, a commercial entity may be approved by the Minister to provide a service to a mine which will not service the public at large. Ergon Energy submits that the references to 'public' in the definition of 'public utility provider' and the provisions referring to a 'public utility service' need to be revisited and amended to clarify the above matters. In particular, proposed new sub-clause (e) of the definition of "public utility provider" does very little to expand or add anything to the current sub-clause (e) (to be renumbered as (g) once the amendments are passed) which already allows the Minister to approve a person to provide a public utility service. Proposed new sub-clause (f) of the definition of "public utility provider" also contains the words 'public utility service' which creates ambiguity in the case where the infrastructure is being used by an entity to provide a service to one person or for example a mine. Section 369(3) provides "Also, a public utility easement may be registered in favour of a person mentioned in schedule 6, definition public utility provider paragraph (e), only if the easement is for the public utility service mentioned in the paragraph." Paragraph (e) of the current definition (to be renumbered as (g) once the amendments are passed) does not have any public utility services mentioned in the paragraph. Ergon Energy considers that the drafting in section 369(3) needs greater clarity as to what is being referred to. A simple solution may be to define what a public utility service actually is and remove references to "public" by renaming it a "utility service" or similar." (Sub 15, pp.1-2)	The amendment to the definition of public utility provider will facilitate that requirement. The amendment does not change the current power of the Minister administering the *Land Act 1994* to approve a person as a public utility provider for a particular public utility service provided the Minister is satisfied that person is suitable to provide the service.
	18. AgForce Queensland	Removal of closer settlement provisions	AgForce submits that "…the Bill proposes the removal of a Chief Executive requirement to consider whether all or parts of leasehold land is required for property build-up purposes by removing the living area standards. As AgForce outlined in the submission to the 2012 Parliamentary review into government-owned tenure, the living areas calculations have not been reviewed in over 15 years, and have therefore failed to take into account a range of recent factors such as the increase in productivity and profitability on some individual tenures, terms of trade and the need to spread fixed costs. AgForce supports the removal of the provision and agrees with the principle of allowing the market to decide the most appropriate size of pastoral properties." (Sub 18, p.6)	The Department thanks AgForce for their support of the proposed amendments.
84	18. AgForce Queensland	Amending when rent is owing	AgForce supports the amendment which will confirm that no rent is imposed on a	The Department thanks AgForce for their support of

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		(s190)	lessee where they have paid the purchase price for the land and fulfilled all conditions of an offer to freehold. "This amendment will ensure that lessees are not paying for the property twice." (Sub 18, p.7)	the proposed amendments.
71	18. AgForce Queensland	Short term extensions	AgForce submits that "…the Parliamentary Committee into Government Owned Land (the Tenure Review) has created uncertainty amongst lessees about whether tenure conversion will be a realistic long term solution for their enterprise. This uncertainty may manifest in delays to commence lease renewal processes and for this reason AgForce supports the amendment to provide for two year lease extensions." (Sub 18, p.7)	Noted
		Part 8 Amendment of Land Title Act 1994		
110 - 140	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ Catchments for their support of the proposed amendments.
110 - 140	8. Cape York Land Council		"CYLC supports the proposal to provide for an alternative process which will allow an indefeasible title to be created where a deed of grant is delivered to a grantee under the ALA (currently deeds of grant are delivered to grantee and cannot be lodged in land registry)." (Sub 8, p.3)	The Department thanks CYLC for their support of the proposed amendments.
114	11. Queensland Farmers' Federation	Creation of non-tidal boundary (watercourse) by registration of plan	"QFF supports the proposed amendment to allow for watercourses to be registered on title for the purposes of local governments maintaining environmental care." (Sub 11, p.5)	The Department thanks QFF for their support of the proposed amendments.
120 - 125	11. Queensland Farmers' Federation	Public utility easements	QFF submits that it "… supports expanding the definition of a public utility provider to allow entities such as Category 2 water boards which are converting to private entities to register easements for their services." (Sub 11, p.5)	The Department thanks the QFF for their support of the proposed amendments.
		Part 9 Amendment of Land Valuation Act 2010		
141 - 149	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ Catchments for their support of the proposed amendments.
142	18. AgForce Queensland	Market survey reports	AgForce submits that "…given the paucity of annual land sales data that can utilised for annual land revaluations, AgForce supports the formal amendment that will allow the State Valuation Service (SVS) flexibility to create a market survey report which includes sales that have occurred outside of a particular local government area. This amendment formally endorses an approach which AgForce understands has been occurring for a number of years." (Sub 18, p.7)	The Department thanks AgForce for their support of the proposed amendments.
141 - 149	18. AgForce Queensland	Other LVA amendments	AgForce is supportive of all other LVA amendments as outlined in the Land and Other Legislation Amendment Bill 2013. (Sub 18,p.7)	The Department thanks AgForce for their support of the proposed amendments.
		Part 10 Amendment of Local Government Act 2009	N/A	N/A
		Part 11 Amendment of the Petroleum Act 1923		

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		Part 12 Amendment of Petroleum and Gas (Production and Safety) Act 2004		
170 - 171	4. Queensland Resources Council	Conversion of petroleum wells	The Queensland Resources Council supports amendments to the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004* to provide for the conversion and transfer of petroleum wells, including coal seam gas wells, to water supply bores or water observation bores, and without the requirement for a licensed water bore driller. (Sub 4, p.1)	The Department thanks the QRC for their support of the proposed amendments.
180 - 186	12. Origin Energy Resources Limited		Origin Energy supports the proposed amendments. Origin submit that "…these proposed amendments will allow our environmental monitoring program to be enacted without the duplication of approvals pursuant to the Water Act and will allow petroleum wells to be converted to water or monitoring wells thereby reducing the costs and potential impacts associated with the construction of additional wells for these purposes. Origin also supports the removal of pipelines carrying produced water from the definition of operating plant which unnecessarily duplicated the health and safety requirements of gas pipelines. We also support the amendments to remove the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users. This now streamlines the process for the use of water for a variety of beneficial uses." (Sub 12, p.1)	Regarding Origin's comments on produced water pipelines, The Department wishes to clarify that the amendment does not remove all pipelines carrying produced water from the definition of operating plant. Rather, the amendment seeks to make clear that only those pipelines transporting produced water without any petroleum are excluded.
170 & 171	4. Queensland Resources Council	Removing the requirement for a water licence for associated water	The Queensland Resources Council supports amendments to the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004* to remove the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users. (Sub 4, pp.1-2)	The Department thanks the QRC for their support of the proposed amendments.
170 - 171	7. Bridgeport Energy Limited	Removing the requirement for a water licence for associated water	Bridgeport welcomes this amendment and supports it for the benefit of the petroleum industry. (Sub 7, p.2)	The Department thanks Bridgeport Energy for their support of the proposed amendments.
180 - 186	7. Bridgeport Energy Limited	Conversion of petroleum wells	Bridgeport Energy Limited supports the amendments to the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004* to provide for the conversion and transfer of petroleum wells, including coal seam gas wells, to water supply bores or water observation bores, and without the requirement for a licensed water bore driller. (Sub 7, p.2)	The Department thanks Bridgeport Energy for their support of the proposed amendments.
180 - 186	11. Queensland Farmers' Federation	Conversion of petroleum wells	QFF submits that it "…supports this proposed amendment on the understanding that conversions of petroleum wells to water supply bores or water observation bores is competently handled. It is also understood that any conversions to water supply bores take into account any relevant water management arrangements that may be in place." (Sub 11, p.5)	Amendments to subordinate legislation are proposed to ensure that the conversion is carried out in compliance with the requirements prescribed under a regulation. These requirements are likely to be contained in a Code of Practice, the drafting of which will be informed by reference to the current prescribed 'Code of Practice for the Construction and Abandonment of

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				Coal Seam Gas Wells in Queensland' (CSG COP) and any requirements that must be complied with by a licensed water bore driller for the construction of water bores. Also, the drafting of any Code of Practice that will regulate the conversion of a petroleum well to a water observation bore or a water supply bore, will be contributed to by government officers who are aware of the need to take into account water management arrangements that may be in place and ensure the protection of the groundwater resource. It should also be noted that a petroleum well may only be converted if the drilling of the well commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012. The reason for this is that certain petroleum wells were drilled or decommissioned in compliance with the CSG COP. The petroleum wells constructed or abandoned in compliance with the CSG COP maintain long term well integrity, containment of gaseous petroleum and the protection of groundwater resources. For the conversion of wells to a water observation bore or water supply bore, the drilling of these wells must have commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012 to generally maintain the integrity of the resultant water observation bore or water supply bore.
152 - 186	18. AgForce Queensland	Conversion of petroleum wells	AgForce submits that "…the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* currently prescribe that only water supply bores and water observation bores may be transferred to a landholder during the term of the petroleum tenure; and only properly decommissioned petroleum wells (converted to a water supply or observation bore) may be transferred after the petroleum tenure ends. The proposed amendments will streamline the process for the conversion of petroleum wells by extending the conversion to include petroleum well drillers (not only licensed water bore drillers), addressing safety and environmental matters and clarifying some administrative elements of conversion. The Bill indicates that simplifying the conversion process is likely to result in more	Amendments to subordinate legislation are proposed to ensure that the conversion is carried out in compliance with the requirements prescribed under a regulation. These requirements are likely be contained in a Code of Practice, the drafting of which will be informed by reference to the current prescribed 'Code of Practice for the Construction and Abandonment of Coal Seam Gas Wells in Queensland' (CSG COP) and any

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			petroleum wells being converted to water bores, benefitting the community by providing landholders with ready access to water, without the landholder having to specifically pay for the drilling of a water bore. Where this is accompanied by appropriate oversight of ongoing safety and water quality outcomes and a scientific understanding of the potential impacts on aquifers and other water users, these outcomes could be positive for primary producer landholders. Protecting the integrity of underground aquifers and surface environments and the health and safety of landowners who might use converted wells is of paramount concern to AgForce. It is vital that the long term integrity of operating and decommissioned and converted petroleum wells is ensured so that interconnection between coal seams and aquifers does not occur and water quality appropriate for landholder use is maintained. Where the statement by the well holder transferring the bore that it has been drilled to comply with the appropriate regulations is subsequently shown to be inaccurate and the well integrity compromised then the responsibility for achieving a proper conversion should remain with the well holder not the landholder. Compliance with the regulations and codes for conversion must be accompanied by transparent oversight and auditing by the Government. This should extend to the integrity of wells established prior to 1 January 2012. As part of the reform process, AgForce supports the establishment of a small committee, administered by DNRM, to provide a forum by which current and emerging issues regarding well conversion can be addressed over both the short and longer term. This advisory committee could be comprised of tenure holders, drillers, departmental staff, landholders or their representatives, environmental interests and water drillers to ensure an appropriate mix of expertise and interests and transparency. They would have a role in monitoring conversion compliance with the appropriate regulations and the application and regular updating of the Code of Practice for Constructing and Abandoning CSG wells in Queensland. It is suggested that the Agriculture, Resources and Environment Committee consider the establishment of such a group in support of the implementation of the proposed amendments." (Sub 18, p,.6)	requirements that must be complied with by a licensed water bore driller for the construction of water bores. Also, the drafting of any Code of Practice that will regulate the conversion of a petroleum well to a water observation bore or a water supply bore, will be contributed to by government officers who are aware of the need to take into account water management arrangements that may be in place. It should also be noted that a petroleum well may only be converted if the drilling of the well commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012. The reason for this is that certain petroleum wells were drilled or decommissioned in compliance with the CSG COP. The petroleum wells constructed or abandoned in compliance with the CSG COP maintain long term well integrity, containment of gaseous petroleum and the protection of groundwater resources. For the conversion of wells to a water observation bore or water supply bore, the drilling of these wells must have commenced on or after 1 January 2012 or the well was decommissioned on or after 1 January 2012 to generally maintain the integrity of the resultant water observation bore or water supply bore. The proposal for the establishment of a small committee, administered by DNRM, to provide a forum by which current and emerging issues regarding well conversion can be addressed, is really a policy issue that cannot be addressed in this forum.
152 - 186	12. Origin Energy Resources Limited	Conversion of petroleum wells Pipelines transporting produced water	Origin Energy supports the proposed amendments. Origin submit that "…these proposed amendments will allow our environmental monitoring program to be enacted without the duplication of approvals pursuant to the Water Act and will allow petroleum wells to be converted to water or monitoring wells thereby reducing the costs and potential impacts associated with the construction of additional wells for these purposes. Origin also supports the removal of pipelines carrying produced water from the definition of operating plant which unnecessarily	The Department thanks Origin Energy for their support of the proposed amendments.

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			duplicated the health and safety requirements of gas pipelines. We also support the amendments to remove the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users. This now streamlines the process for the use of water for a variety of beneficial uses." (Sub 12, p.1)	
		Part 11 Amendment of Petroleum Act 1923		
	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ Catchments for their support of the proposed amendments.
154	7. Bridgeport Energy Limited	Amendment of s 75L (Restrictions on making conversions)	Bridgeport Energy Limited agrees that the proposed changes allow landholders to access new water supplies without incurring the costs of drilling a separate water bore. (sub 7, p.2)	The Department thanks Bridgeport Energy for their support of the proposed amendments.
		Part 12 Amendment of Petroleum and Gas (Production and Safety) Act 2004		
168 - 186	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ Catchments for their support of the proposed amendments.
179	4. Queensland Resources Council	Pipelines transporting produced water	The Queensland Resources Council submits that it is critical (given that untreated CSG water pipelines are laid in the same trench as gas pipelines which are regulated under the P & G Act and are typically constructed of the same material) that the amendment is clear that water pipelines containing gas should be regulated solely by the P&G Act, to ensure that activities are not captured simultaneously by two separate regulatory regimes. (Sub 4, p.2)	Water pipelines carrying petroleum on a petroleum authority will be operating plant in their own right and therefore only the *Petroleum and Gas (Production and Safety) Act 2004* will apply.
176	11. Queensland Farmers' Federation	Pipelines carrying produced water	"QFF supports this proposed amendment to address an unintentional omission from previous legislation changes." (Sub 11, p.5)	The Department thanks the QFF for their support of the proposed amendments.
169 170, 171 255 256 257 262	11. Queensland Farmers' Federation	Removing the requirement for a water licence for associated water	QFF submits that "…removal of the requirement for a petroleum tenure holder to obtain a water licence for the supply of associated water to other users will reduce regulatory burden for CSG development. "However, it is important that the 'evolution of the adaptive management framework' for CSG activities deals with issues that may arise for the management of CSG water as a resource and not just as a 'by product' of petroleum activities. QFF's submission to the Department of Environment and Heritage Protection on the draft Coal Seam Gas Water Management Policy late last year drew attention to the need for planning and management of the transfer of CSG water for reinjection and substitution schemes. QFF was concerned that these issues needed to be carefully investigated by Government agencies with adequate engagement of CSG companies, agriculture industries and other stakeholders. QFF is particularly concerned about how possible impacts CSG operations may have on the Condamine aquifers can be managed without State Government intervention. For example, options to inject treated coal seam gas water and or substitute it for existing water entitlements to the aquifer may have to be considered. A water	QFF's concerns with the Government's adaptive management approach to CSG are noted. However, the legislative amendments in the Bill have been developed to meet the Government's commitment to reduce red tape on business and the community. If investigations demonstrate an injection/substitution scheme is proven to be the best way to proceed, the most appropriate regulatory measures, if required will be considered.

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			licencing process would at least provide a means of addressing how an injection/substitution process could be managed to address potential impacts on the aquifer. Special regulatory measures may now be required if investigations show that an injection/ substitution scheme is the best way to proceed." (Sub 11, pp.3-4)	
169 170 171 255 256 257 262	18. AgForce Queensland	Removing the requirement for a water licence for associated water	AgForce submits that "…currently a petroleum tenure holder may provide associated water to a landholder whose land overlaps the petroleum tenure, however a water licence is required if the water is provided to another landholder whose property does not overlap the tenure. The requirement for water licences is seen as no longer valid due to the evolution of the adaptive management framework for petroleum activities since 2004 when Chapter 3 of the *Water Act 2000* was enacted. AgForce does not support an adaptive management approach to CSG development and has called for a moratorium on CSG development until the potential impacts in the area of extraction are scientifically understood. These concerns have been justified further by the findings of the IESC about the Arrow EIS with respect to adequacy of risk management for underground water impacts. The *Petroleum and Gas (Production and Safety) Act 2004* does not limit the volume of water that may be taken under the underground water rights (s 185 (3)) and this Bill seeks to amend the Act to allow the tenure holder to use associated water for any purpose, not just authorised uses, both on and off tenure. Water licensing is seen as one way by which the Government can guide the integration and management of this produced water within the broader water resource planning process, as this is not captured in the adaptive management framework. The current Government policy for beneficial use refers to statutory consultation processes with local stakeholders by a company in determining how the water might be beneficially used. However there is no obligation on a company to ensure that the greatest benefit to the community at a regional level is achieved from the use of this unrestricted volume of produced underground water, for example by coordinating with the water management processes of other companies. Chapter 3 only applies 'make good' provisions at the bore and not to the aquifer itself and these provisions do not enjoy widespread community confidence that they are capable of addressing longer term (post-tenure) or large scale damage to aquifers. Prior to this amendment within the Bill being adopted, AgForce would call for a review of Chapter 3 of the Water Act and the establishment of a process by which produced water is integrated into the broader water planning framework." (Sub 18, pp.2-3)	The Department notes Agforce's concerns with the Government's adaptive management approach to CSG. However, the legislative amendments in the Bill have been developed to meet the Government's commitment to reduce red tape on business and the community. Under the Queensland petroleum legislation, tenure holders have the right to extract groundwater in the process of producing CSG without an authorisation under the *Water Act 2000*. The long standing right exists because water is unavoidably extracted in the process of producing petroleum and gas. Use and discharge of extracted water is subject to approval conditions; however, extraction is not volumetrically limited and is not managed under the water planning framework. Volumes of CSG water produced can be large compared to other forms of take, and the volumes produced tend to diminish over time. There is thus huge uncertainty associated with volumes and reliability over time. Accordingly, CSG water doesn't meet the criteria for a traditional 'water access entitlement' under the *Water Act 2000*. Under the water entitlement and planning framework, the State manages the water resource to long term sustainable levels that have broad community acceptance whereas for the CSG industry the impacts are mitigated through "make good" and other strategies that the proponent is responsible for implementing. This is achieved by the conditioning of environmental authority (EA) under an adaptive

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				management regime to minimise and mitigate any adverse impacts if they occur. These matters are best addressed under the Coal Seam Gas Water Management Policy. The timing and content of a review of Chapter 3 of the *Water Act 2000* is a matter for the Department of Environment and Heritage Protection (who administer this chapter of the *Water Act 2000*)
	2. Wildlife Preservations Society of Queensland		The Wildlife Preservation Society of Queensland submits that "…when converting decommissioned petroleum wells, especially coal seam gas wells, to a water supply bore or a water observation bore, strict undertakings to ensure the safety and health of humans, livestock, and the environment must be in place. There must be full and thorough testing of the water prior to any decommissioning, to ensure that it is fully potable, free of any contaminants from petroleum residue, methane, or any other source." (Sub 2, p.1)	The conversion of a petroleum well will be restricted to those petroleum wells drilled on or after 1 January 2012 or decommissioned on or after 1 January 2012. The rationale behind this is that for coal seam gas (CSG) wells drilled or decommissioned on or after 1 January 2012, the drilling or decommissioning must have complied with the 'Code of Practice for the Construction and Abandonment of Coal Seam Gas Wells in Queensland' (CSG-COP). The CSG-COP was introduced to ensure, among other things, that all CSG wells are constructed and abandoned to a minimum acceptable standard resulting in long term well integrity, containment of gas and the protection of groundwater resources. By converting CSG wells that have been constructed and abandoned to the CSG-COP, the cross contamination of CSG and groundwater is extremely unlikely to occur. Further, the groundwater reservoir targeted when the CSG well is being converted to a water observation bore or water supply bore will be at a significantly lower depth than where any CSG was encountered. The CSG well abandonment procedure in the CSG-COP is such that the integrity of the CSG well will be maintained, again ensuring that there is no contamination of the groundwater reservoir by CSG.

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171	7. Bridgeport Energy Limited	Amendment of s 188 (Authorisation for Water Act)	Bridgeport proposes that "…the Queensland Government should also specifically mention and include petroleum produced water pipelines in the amendments. The amendments still aim at CSG producers who have a high likelihood that produced water is carrying gas. Bridgeport produced water pipes carrying some residue of petroleum from the well and drilling operations do not contain any gas. As such they shouldn't be regulated under *the WHS Act 2011*. In this proposed differentiation, Bridgeport believes that the need for us to comply with both statutes is an unnecessary regulatory burden. The amendments do not address all the issues that proponents have in relation to water regulation. For example, Bridgeport will be subject to obligations under both Acts where, at different stages of processing and production, water is (or is not) completely separated from petroleum. While the changes clarify proponents' obligations in this respect, they do not adequately reduce the regulatory burden in all instances." (Sub 7, p.2)	The definition of petroleum in section 10 of the *Petroleum and Gas (Production and Safety) Act 2004* is quite broad and captures more than just gas. If Bridgeport's produced water pipes carry some residue of petroleum those pipes will be regulated under the P&G Act only. Water pipelines carrying petroleum on a petroleum authority will be operating plant in their own right and therefore the WH&S Act will not apply The proposed amendments also include changes to section 670(2)(b)(ii) to make clear that a facility that is used to take, interfere with or treat associated water and any petroleum incidentally collected with water are included as operating plant.
		Part 13 Amendment of River Improvement Trust Act 1940		
187 - 193	6. SEQ Catchments		SEQ Catchments supports the proposed amendments relating to Trust Board administration and functioning. (Sub 6, p.7) [see additional comment in body of submission relating to catchment management]	The Department thanks SEQ catchments for their support of the proposed amendments.
		Part 14 Amendment of South-East Queensland Water (Distribution and retail Restructuring) Act 2009		
194 - 197	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
		Part 15 Amendment of Sustainable Planning Act 2009		
198 - 203	6. SEQ Catchments		SEQ Catchments supports the proposed amendments. (Sub 6, p.7)	The Department thanks SEQ catchments for their support of the proposed amendments.
		Part 16 Amendment of Sustainable Planning Regulation 2009		
		Part 17 Amendment of Torres Strait Islander Land Act 1991		
		Part 18 Amendment of		

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		Vegetation Management Act 1999		
224 225 226	6. SEQ Catchments		SEQ Catchments submits that the amendment relating to addressing anomalies created by the vegetation management watercourse map as evidenced in the Pacific View Farms matter is sensible. (Sub 6, p.7). [SEQ Catchments will be providing further comment in its submission on amendments to the Vegetation Management Act to the separate inquiry by the State Development, Infrastructure and Industry Parliamentary Committee]	Noted
227 - 306		Part 19 Amendment of Water Act 2000		
n/a	16. Healthy Waterways	Risks associated with devolving water resource decisions to individual landowners	Healthy Waterways agrees that improvements can be made to both the legislation and the way the legislation is applied, to support improvements in waterway management at the scale of the individual landowner as well as the sub-catchment and catchment. They submit that "…many of the risks associated with water resource management, including security of supply and flood damage, occur as a consequence of the way an entire catchment is managed. Hence, to mitigate these risks governments need to support and enhance collaborative actions that are applied at the sub-catchment scale, involving multiple landowners. Healthy Waterways is concerned that the proposed amendments reduce the ability for collective decision making to occur; hence the best outcomes for a catchment community are not likely to be achieved. Many of the proposed amendments devolve the decision making to individual landowners, which is likely to increase risks for the community as a whole. To avoid increasing risks to communities of Queensland, through a reduction in water resource management, government support to enhance landowner involvement in collaborative planning initiatives, at the sub-catchment and catchment scale need to be prioritised." (Sub 16, p.1)	The Department notes the concerns raised in regard to the potential for the amendments to reduce the ability for water to be managed in a holistic manner and the need to provide support for collaborative planning initiatives at various scales. An important tool retained in the *Water Act 2000 i*s the water use plan. The existing water use plan framework is an integrative and strategic mechanism to manage land and water degradation risks, as it has very broad applicability to any part of Queensland and is strategically targeted to areas of high risk. This mechanism is one that provides for the management of water use degradation risks on a landscape scale.
227 - 306	6. SEQ Catchments		SEQ Catchments supports the amendments – "…the new provisions relating to levees are particularly welcome." In the body of its submission, SEQ Catchments suggests these provisions be expanded to existing levees where it can be demonstrated that they result in negative impacts on, or direct threats to infrastructure, public safety and health, and water quality. The submission advocates this expansion on a management unit type approach. (Sub 6, p.7) SEQ Catchments supports: the provisions to make water licences "perpetual"; the provisions related to associated water, provisions to extend the stock and domestic authorisation to other minor take activities; provisions to extend the life of a plan in certain circumstances; and supports with qualification the provisions relating to riverine protection permits.[SEQ Catchments has expressed concerns about the possible impact in SEQ on watercourse vegetation and made separate comment in the body of its submission].	Levees: SEQ Catchments has suggested that the levee provisions in the Bill be extended to existing levees where it can be demonstrated that they result in negative impacts on, or direct threats to infrastructure, public safety and health and water quality. In response, the clause as drafted is consistent with the government's position in this area. Supported provisions: The Department thanks SEQ catchments for their support of the proposed amendments. Declared Catchment areas: SEQ Catchments concerns are noted. However, the removal of the

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			SEQ Catchments also supports the provisions relating to land and water management Plans [further comment in submission]. SEQ catchments does not support the removing declared catchment areas [separate comment in submission about effectively using the provision rather than removing it]. (Sub 6, p.8)	declared catchment area provisions align with the Government's commitments to reduce red tape on the development industry by minimising referral requirements for development applications and empower local governments to make land use decisions at a local level. Water quality within the immediate dam catchments is considered a local-scale issue and therefore best managed by local councils. Many local government planning schemes now include measures that consider water quality and ensure new development near water storages is appropriate. The State continues to support local government management of water quality through its desired outcomes in current and future statutory regional plans. Further, water quality issues continue to be regulated by the *Environmental Protection Act 1994* under its General Environmental Duty as well as Environmentally Relevant Activities requirements for high risk activities such as sewage treatment plants and regulated intensive animal industries.
227 - 306	9. Powerlink Queensland	Removing the requirement for a riverine protection permit to destroy vegetation	Powerlink states that it "…is supportive of the proposed changes to the *Water Act 2000* (Qld) to remove the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring to the extent that it avoids duplication and simplifies the regulation of vegetation clearing activities under the Water Act and the *Vegetation Management Act 1999* (Qld) (VMA) and the *Sustainable Planning Act 2009* (Qld) (SPA) legislative frameworks. Currently, Powerlink undertakes clearing activities in a water-course, lake or spring in accordance with the Guideline - Activities in a watercourse, lake or spring carried out by an entity (Guideline) (which is approved by the chief executive administering the Water Act) or otherwise in accordance with a riverine protection permit granted under the Water Act. Powerlink notes and is supportive of the retention of the existing exemption in Schedule 24, Part 1, Item 1(2) of the Sustainable Planning Regulation 2009 (SPR) which allows certain clearing within a watercourse or lake which is carried out under the Guideline. Powerlink notes that the proposed amendments to Part 19 of the Water Act are to coincide with consequential amendments to the SPR. Powerlink would like to be involved in any further consultation processes in the event that any changes to the Guideline or SPR are	The Department thanks Powerlink for their support of the proposed amendment. In response to the issues raised, the department provides the following responses: (1) The destruction of vegetation will no longer be authorised under the *Water Act 2000*. Only the excavation or placing of fill in a watercourse, lake or spring will be authorised under a riverine protection permit or a guideline approved by the chief executive. As such, the existing chief executive guidelines will be amended or replaced so that they will only apply to the excavation or the placing of fill in a watercourse, lake or spring. (2) Development approval will not be required under SPA where the clearing of vegetation is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring.

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			proposed. Therefore Powerlink seeks confirmation of the following issues: (1) In the absence of the requirement for a riverine protection permit under the Water Act for vegetation clearing / destruction, will the Guideline remain operative? (2) We note that the Guideline provides: "Clearing of native vegetation in a water-course or lake does not require assessment under the SPA if the clearing is carried out in accordance with this [G]uideline." If the Guideline is no longer operative under the Water Act, what assessment will be required under the SPA? (3) Furthermore, we note that the commence-ment of the amendment is proposed to coincide with consequential amendments to the SPR, which will retain an exemption (Schedule 24, part 1, item 1) to allow the clearing of an area of vegetation (less than 0.5 ha) in a watercourse, lake or spring where: (a) the clearing is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring and (b) the excavating or placing of fill is either authorised by a riverine protection permit or carried out under a chief executive approved guideline. Clearly this exemption will not be available to Powerlink if the Guideline is no longer operative. (4) We note that a riverine protection permit will still be required to excavate or place fill in a watercourse, lake or spring, and therefore we seek clarification whether the Guideline will remain operative in these circumstances?" (Sub 9, pp.3-4)	(3) The exemption in schedule 24, part 1, item 1 will not apply to activities in a watercourse, lake or spring that solely relate to the clearing of vegetation (i.e. where the clearing of vegetation is not a necessary and unavoidable part of excavating or placing fill). (4) The Guidelines (once amended or replaced) will only apply to the excavation or placing of fill in a watercourse, lake or spring.
228 290	16. Healthy Waterways	Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)	Healthy Waterways is concerned that "…these amendments will reduce the ability to manage water supply in a holistic fashion and will reduce the security of existing water entitlements if the cumulative impact of multiple uses is not combined through a Total Water Cycle Management approach. Specifically amendments that concern Healthy Waterways are: 1 (g) interfere with overland flow water 2 (c) take or interfere with sub artesian water 4 (a) ... diversion of a watercourse ... associated with a resource activity Recommendation: These amendments are removed until a process is identified that ensures the combined impacts of all interference (including take) of ground water and surface water, within a water catchment, are included in the assessment and approval of new activities." (Sub 16, p.2)	The Department notes the concerns raised in regard to the potential for the amendments to reduce the ability to enable water supply to be managed in a holistic manner. However, the amendments to section 20 are considered low risk to the sustainable management of water resources as they are activities with minor consumptive take.
293 294 299 305	19. Capricorn Conservation Council	Removing the requirement for a RPP to destroy vegetation	Capricorn Conservation Council submits that "…of particular concern for our organisation (but our concerns are not limited to these) are the proposed changes to remove the requirement of a Riverine Protection Permit to destroy vegetation and the removal of the requirement for licenses to interfere with watercourses. We do not support clauses 293, 294 and 228 in the Bill." (Sub 19, p.1)	The Council's concerns are noted. However, the Bill is drafted consistent with the government's policy in this area.
234 - 247,	11.Queensland Farmers' Federation	Conversion of water authorities to two-tier cooperative structures	QFF submits that it "…has worked with the Pioneer Valley Water Board to seek the proposed amendments which will allow the establishment of two separate entities – the owner of the infrastructure and the entity that operates and provides	The Department of Energy and Water Supply thanks the QFF for their support of the amendments.

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319 - 327			services to customers. This amendment will allow the operational entity to hold the distribution operations licence provided the entity that owns the infrastructure so nominates. Amendments are also proposed to the *Water Supply (Safety and Reliability) Act 2008* to allow the entity that does not own the infrastructure to be a registered as a service provider. The proposed amendments will ensure that the substantial investments in the Boards water supply scheme assets are protected against any failure of the operational entity. The proposed amendments will allow for other two tier co-operative structures to be developed. QFF supports the amendments." (Sub 11, p.4)	
234 - 247 319 - 327	18. AgForce Queensland	Conversion of water authorities to two-tier cooperative structures	AgForce submits that "…currently the *Water Act 2000* and *Water Supply (Safety and Reliability) Act 2008* do not sufficiently accommodate conversion of a water authority into two separate entities, where one entity owns infrastructure while the other operates the infrastructure and provides services to customers. In response to proposals from a number of water authorities to transition to a two tier cooperative structure involving a holding co-operative (which would own the water infrastructure) and a trading co-operative (which would provide water services to entitlement holders within the supply scheme) the two Acts are being amended. The amendments outlined provide for an alternative structure using an 'opt in' approach while retaining the capacity for Category 2 boards to not have to transition to a two tier arrangement. The capacity for the chief executive to examine the infrastructure holder's capacity to take over the DOL should the arrangement break down will work towards protecting the interests of supplied water users. On this basis AgForce are supportive of the proposed amendments." (Sub 18, p.5)	The Department of Energy and Water Supply thanks the AgForce for their support of the amendments.
252 - 254	11. Queensland Farmers' Federation	Dealing with surrendered or forfeited interim water allocation	QFF submit that "…as water planning and pricing reforms have been implemented, small numbers of water entitlement holders have sought to surrender their licences (interim water allocations that still attach to land) before they are converted to tradable water allocations which can only be sold on the market. Entitlements are forfeited as result of breaches to the Act. QFF supports the proposed amendment as it allows the chief executive the options of cancelling surrendered or forfeited interim water allocations of transferring these entitlements to water scheme operators (ie interim resource operations licence holders) in addition to selling the entitlements. It is not expected that surrendered or forfeited interim water allocations will involve significant quantities of water." (Sub 11, p.4)	The Department thanks the QFF for their support of the amendments.
258, 265 - 270	11. Queensland Farmers' Federation	Providing flexibility when publishing public notices	QFF support this amendment of the definition of 'publish' "…as it will enable the use of appropriate measures to notify affected parties and the wider community about water planning and management activities." (Sub 11, p.4)	The Department thanks the QFF for their support of the amendments.
258 265 -	18. AgForce Queensland	Providing flexibility when publishing public notices	AgForce submits that "…the Water Act prescribes the circumstances and methodologies whereby public notification is required on water planning and management activities. This includes publication in a newspaper of	The Department thanks Agforce Queensland for their submission and note their support and comments for the public notice amendments.

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270			an application for a water licence at the cost of the applicant. The Bill amends the definition of 'publish' to provide departments with the flexibility to tailor the notification method to the intended audience and ease the regulatory burden on the departments and clients. AgForce supports these amendments as long as departmental and Chief Executive considerations accommodate the local conditions and needs of the intended audience, including accounting for the limitations on electronic communications that exist in in some rural and remote areas of the state. The end goal should be that the effectiveness of communications should be increased, rather than solely focusing on cost reductions." (Sub 18, pp.4-5)	In determining the most appropriate method of publication where discretion is granted, the chief executive or relevant person must have regard to the intended audience. This will include consideration of the ability of interested parties to utilise or access various methods of publications. This will extend to examining the extent of limitations, if any, that exist in some rural and remote areas in respect to electronic communications.
264	11. Queensland Farmers' Federation	Removing Declared Catchment Areas	QFF submit that "this amendment is supported as it understood that wider regulatory powers may be required to control land use activities that may have an adverse impact on water quality in a water storage, lake or groundwater area." (Sub 11, p.4)	The Department thanks the QFF for their support of the amendments.
229 - 230, 288	11. Queensland Farmers' Federation	Postponing the expiry of water resource plans	QFF state that it "…recognises that there are a significant number of water resource plans that will have to be reviewed over the coming few years if this proposed amendment does not proceed. It is also recognised that there have already been delays in reviews of basin plans due to workload priorities and resourcing constraints. The proposal to allow the Minister to postpone the expiry of a water resource plan for up to ten years is supported. This should allow plan reviews to be adequately resourced and conducted in accordance with defined priorities which should include completion of initial plans for groundwater areas for example. It is noted that public submissions will be called for any proposal to extend a water resource plan." (Sub 11, p.3)	The Department thanks the QFF for their support of the amendments.
232	11. Queensland Farmers' Federation	Removing requirement for land and water management plans	QFF state that "…the QFF, its member industries and the previous Department of Environment and Resource Management had been investigating ways to simplify regulatory requirements for the conduct of land and water management plans where additional water had been purchased for irrigation. Options under investigation included a statutory risk based approach to the conduct of these farm plans which included a duty of care approach for low risk areas. This proposal involved a significant escalation in regulation for areas assessed to be at higher levels of risk. The option of applying a statutory guideline to set a minimum standard for farm planning across the state was not supported as it failed to allow land and water management plans to be defined to address risk in irrigation areas. QFF supports the proposed amendment that will allow irrigators to self-manage the risks associated with irrigation water use on-farm. QFF member industries will continue to promote the adoption of industry best management practices. It is noted that the provisions in the Water Act 2000 for the preparation of water use plan will be retained to address identified area wide degradation issues which extend beyond on-farm water use, e.g. leakage from irrigation distribution channels and associated infrastructure." (Sub 11, p.4)	The Department thanks the QFF for their support of the amendments.
290	11. Queensland Farmers'	Replacement of s 20	QFF supports these amendments. "These amendments are to allow activities to be	The Department thanks the QFF for their support of

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	Federation	(Authorised taking of, or interference with, water without water entitlement)	undertaken without a water entitlement. These activities would have a minimal risk to the sustainable management of water resources. Comment is provided on the following proposals: a) *Authorisation for Aboriginal and Torres Strait Islander parties to take water for traditional activities or cultural purposes* – QFF understood that water resource plans provided for cultural needs as part of environmental requirements but accepts this proposed amendment to specifically provide for these needs. b) *Prescription of low risk activities* – QFF and member industries have drawn attention to the need for this proposed amendment because water entitlements provided through the water resource planning process across the State have not made adequate provision for the existing water requirements for some farming activities. For example, dairy farms must wash down dairies and entry areas; this is a necessary activity for all dairies but has not been specifically recognised. QFF supports the proposed amendment. c) *Authorisation for the take of stock and domestic water in a dam and for non-riparian access* – QFF and member industries have also drawn attention to the need for this proposed amendment as the allowance for the take of water for stock and domestic purposes has failed to recognise that dairy herds for example require more water for drinking and hygiene requirements than allowed for under the definition of stock and domestic requirements in the *Water Act 2000.*"(Sub 11, p.4)	the amendments.

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	8. Cape York Land Council	Amendment of s 20
		(Authorised taking of, or interference with, water without water entitlement)
			CYLC notes that "…the proposed amendments to streamline the process for conversion of petroleum wells to water bores, and to allow additional low risk activities without a water entitlement, including the taking of or interference with water by Aboriginal parties for traditional activities or cultural purposes. CYLC notes its concerns that increased access to water will potentially increase use and therefore impacts on environmental, cultural heritage and native title values in the country around the watering points. Whilst a water entitlement may not be required in circumstances where Aboriginal parties have native title rights and interests to use water, the proposed amendments to the *Water Act 2000* may assist in circumstances where native title rights and interests do not exist.
			However:-
			• CYLC has concerns about the limitations imposed by linking the definitions of operative terms to the *Aboriginal Cultural Heritage Act 2003* (ACHA):-
			  • The term Aboriginal party refers to s.35 of the ACHA. CYLC has previously raised concerns about the link between cultural heritage and a "native title party" who was a registered native title claimant. It may be in particular circumstances where a native title claim has been withdrawn that it is not appropriate for the previously registered native title claimant to continue to assert rights;
			  • The term cultural purpose is defined to include an activity, other than a commercial activity, that supports the maintenance or protection of
				The Department provides the following response in relation to the Council's concerns in relation to the proposed amendment of s20:
				
				Aboriginal Party and Cultural Purpose
				The reference to the terms used in the *Aboriginal Cultural Heritage Act 2003* ensures that there is a consistent understanding of what constitutes 'Aboriginal cultural heritage' and what a 'cultural purpose' is.
				
				Traditional activities
				The use of the term 'traditional activities' is consistent with the definition of 'traditional activity' in section 44A of the *Native Title Act 1993* (Cth).
				
				Economic uses
				Council's suggestion that Traditional Owners should have a right to use water for compatible land use activities extending beyond traditional or cultural purposes to economic uses does not align with the

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			Aboriginal cultural heritage within the meaning of s.8 of the ACHA. CYLC has previously raised concerns about the narrowness of the section 8 definition of Aboriginal cultural heritage, and its failure to recognise aspects of Aboriginal culture that extend beyond significant areas or objects; • The term traditional activities for an Aboriginal party refers to any of the following activities the party carries out in accordance with Aboriginal tradition or Island custom- (a) hunting, fishing, gathering or camping; (b) performing rites or other ceremonies (c) visiting sites of significance. • CYLC is concerned that this list may not adequately cover the range of activities for which Traditional Owners might wish to use water, such as for personal use during a meeting on traditional country. • CYLC submits that Traditional Owners should also have rights to use water for compatible land use activities, which may extend beyond traditional or cultural purposes, to economic uses."(Sub 8, pp.3-4)	purpose of this amendment. The purpose of this amendment is to allow the take of water in limited circumstances where the activity is seen as of low risk to sustainable water resource management. The take of water should not result in adverse third party impacts. As such, a water entitlement should be obtained for the economic use of water.
301, 302 306	11. Queensland Farmers' Federation	Regulation of levees	QFF submits that "…in response to consultation conducted in regard to the regulation of levees QFF submitted that it was important to focus on regulating only those artificial embankments which would be built specifically to exclude, control or regulate the flow of floodwater. QFF requested that irrigation infrastructure required to store and distribute water should not be captured in the definition of a levee. In particular, some irrigation infrastructure (such as ring tanks) is already regulated under other legislation or regulation. It was also noted that irrigation farming activities should also be specifically excluded. QFF supports the proposed definition of levees as the most effective means of implementing the findings of the Queensland Floods Commission of Inquiry. The proposed risk based approach should define level of assessments appropriate to the scale and nature of development proposals." (Sub 11, p.2)	The amendments in the Bill have taken note of QFF's submission. The definition of 'levee' being inserted by clause 306 of the Bill does operate to exclude irrigation infrastructure other than 'levee related infrastructure' which includes irrigation infrastructure connected with: • the construction of or modification of a levee; or • used in the operation of the levee to prevent or reduce the flow of overland flow water onto or from land. The definition of 'levee' also excludes structures regulated under another Act including a ring tank regulated under the *Water Supply (Safety and Reliability) Act 2008*.
	18. AgForce Queensland	Regulation of levees	AgForce submits that "…the Bill amends the *Water Act 2000* towards developing a consistent framework to regulate the construction of new levees and the modification of existing levees. This is intended (s967) for the purpose of minimising the adverse impacts these levees could have on overland flow water, the catchment, and landholders. AgForce are supportive of moves to manage impacts of future levee installation on landholders and other stakeholders within catchments. We would like to highlight that these amendments will not address the historical issues surrounding suspected impacts from existing, legally-installed levees, such as may occur in the lower Balonne floodplain. We would not advocate a retrospective application that would disadvantage a person who legally constructed a levee in accordance with the law as it stood at the time of construction. However, we would request that the Government look to examine	The Department thanks AgForce for their support of these amendments, however, the historical issues surrounding the suspected impacts from existing, legally-installed levees are not addressed by this Bill and any dealing with those issues is a matter of government policy. In relation to the development of the supporting regulations, the codes and additional criteria for levee assessment, a regulatory impact statement will be released for public consultation. Major stakeholders, such as AgForce will also be consulted on the

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			these historical issues in more detail, such as through hydrological studies in areas where impacts are suspected to occur, and seek to facilitate a resolution to these issues. Outlined in the explanatory notes, Provision 972J only relates to levees constructed or modified after the commencement of this Bill and so is not expected to apply to these existing levees. s306 (2) outlines a definition of levee as an artificial embankment or wall which excludes, controls or regulates the movement of overland flow water. AgForce welcomes the exclusion of standard agricultural activities (cultivation, clearing, crop or pasture establishment, laser levelling etc.) and irrigation infrastructure (including storages and distribution) from this definition of levee, given that these standard activities undertaken by landholders in the management of their property will have only a minimal impact on water flows. AgForce would recommend that there is an appropriate stakeholder consultation process in the development of the supporting regulations and the codes and additional criteria for levee assessment (s 967). Enabling different categories of levees is supported in order to ensure proportionate levels of assessment can be applied based on appropriate risk assessments (s 969)." (Sub 18, p.1)	proposed amendments.
	4. Queensland Resources Council	Regulation of levees	The Queensland Resources Council seeks confirmation that the amendments do not apply to dams or other flood mitigation measures relating to resources operations. The Queensland Resources Council notes that the Bill provides for amendments to the *Water Act 2000* to provide "…a definition of a levee, identifying that a development permit under the *Sustainable Planning Act 2009* (SPA) will be required (to construct a new levee or modify an existing levee) where the development is assessable development under the SPA, and a power to prescribe categories of levees based on risks assessment criteria. The creation of different categories of levees will enable different levels of assessment under the Sustainable Planning Regulation 2009." (Sub 4, p.2)	The definition of 'levee', in clause 306, at paragraph 3(b), excludes 'a structure regulated under another Act….'. This paragraph will exempt resource operations which are subject to regulation under other legislation such as the *Environmental Protection Act 1994* as these operations are regulated as an environmentally relevant activity for which an environmental impact statement is required. The definition of levee also excludes 'an embankment or other structure constructed for long-term storage of water under the *Water Supply (Safety and Reliability) Act 2008*. This will operate to exclude dams, other than 'hazardous waste dams'. Hazardous waste dams are regulated under the *Environmental Protection Act 1994* and are therefore also exempt from the definition of levee.
	4. Queensland Resources Council	Removing the requirement for licences to interfere for watercourse diversions associated with resource activities	The Queensland Resources Council states that is fully supportive of the process currently underway between government and industry to develop a 'self-assessable' code for the design and construction of watercourse diversions to complement the legislative changes. (Sub 4, p.3)	The Department thanks the QRC for their support of the proposed amendments.

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	11. Queensland Farmers' Federation	Removing the requirement for licences to interfere for watercourse diversions associated with resource activities	"QFF supports the proposal to exempt diversion-type interference works, associated with a resource activity from requiring a water licence provided the works have been authorised by an Environmental Authority under the *Environmental Protection Act 1994*." (Sub 11, p.3)	The Department thanks the QRC for their support of the proposed amendments.
	18. AgForce Queensland	Removing the requirement for licences to interfere for watercourse diversions associated with resource activities	AgForce submits that "…the Bill provides that diversion-type interference works associated with a resource activity would be exempt under a revised s 20 from requiring a water licence if the works are authorised under an Environmental Authority (EA) under the *Environmental Protection Act 1994* (EP Act). The EA will authorise that water diversion works take place, subject to statements of compliance being given for both the design and the construction of the diversion. This is necessary to ensure that the works meets the criteria to maintain the environmental values of the site, and to ensure that the works are constructed accordingly. AgForce would stress that the conditioning within the EA must effectively account for and avoid third party impacts, including on downstream primary producers, as well as other environmental impacts within the catchment. This will require a coordinated approach between the DNRM and DEHP to ensure that the outcomes achieved by current licensing within the Water Act are all translated across into the EA authorisation process." (Sub 18, p.3)	DNRM and DEHP are working together to develop a memorandum of understanding which will guide the assessment of those diversions to which the amendment to section 20 applies. DNRM and DEHP are also working together to develop standard conditions and a guideline for assessing applications. These arrangements are designed to ensure that issues that are usually considered as part of the grant of a water licence, including those identified by the submitter, continue to be considered.
	5. Herbert River Improvement Trust		The Herbert River Improvement Trust generally agrees with the proposed amendments to the *Water Act 2000*, and notes that most of the actual detail would be included in the regulation supporting the Act. (Sub 5, p.1)	The Department thanks the Herbert River Improvement Trust for their support of the proposed amendments.
234 - 247 319 - 327	1. Pioneer Valley Water Board	Conversion of water authorities to two-tier cooperative structures	The PBWC fully supports the proposed amendments to the *Water Act 2000*	The Department thanks the PVWB for their support of the proposed amendments.
234	10. Sunwater Limited	Replacement of 22 107A and 108	SunWater noted in its submission that "…under 122A of the Water Act 2000 (Qld) the chief executive (of The Department) has previously approved standard supply contracts governing the relationships between a resource operations licence holder, distributions operations licence holder and a customer (water allocation holder). Examples of such contracts are the Standard Supply Contract Pioneer River Water Supply Scheme (No. 1) and the Standard Supply Contract Burdekin Haughton Water Supply Scheme (No. 1). SunWater believe that it is paramount that where a water infrastructure owner intends to transfer the responsibilities of the Distribution Operations Licence to an entity, that the provisions of proposed section 1 07C (2) of the Water Act need to be specific in recognis-ing any contractual obligations that may already be in place between a Resource Operations Licence Holder and a Customer where there is a dependency on a Distribution Operations Licence Holder to fulfil these obligations. In addition, in	The proposed current new section 107C(2)(a)(i) provides that the chief executive may approve a nominee to be the holder of the distribution operations licence only if the nominee is 'a suitable entity to hold the licence'. Determining whether a nominee is a suitable entity to hold the licence is a broad discretion which encompasses considering whether the nominee can carry out, in every respect, the duties and obligations of a distribution operations licence holder including, where applicable, those listed by Sunwater.

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			order for the both SunWater and the new entity to fully comply with a Resource Operations Plan's quarterly and annual reporting requirements, the entity must also ensure that it has an ability to transfer data which is consistent with the departmental Water Monitoring Data Reporting Standards (the Standard). SunWater therefore would like to propose some additional wording for Clause 234 s 1 07C (2). SunWater's proposed text is shown in bold italics below: *(2) The chief executive may approve the nominee to be the holder of the licence only if-* *(a) the chief executive is satisfied the nominee-* *(i) is a suitable entity to hold the licence; and* *(ii) can carry out the activities authorised, or to be authorised, under the licence; and* *(iii) can comply with the conditions, or proposed conditions, of the licence* ***including the ability to comply with relevant departmental standards;*** *and* ***(iv) is capable of performing the functions of the Distributions Operations Licence Holder to facilitate the water allocation holder and Resource Operations Licence holder obligations resulting from any water supply contracts that are in place between the Resource Operations Licence holder and the allocation holder in accordance with section 121 of the Water Act."*** (Sub 10, pp.1-2)	Given the broad coverage of the proposed new section 107C(2)(a)(i) it is not necessary to add the additional words suggested by Sunwater, and indeed, to do so might serve to narrow the intended broad coverage of the section by specifying some requirements whilst potentially being silent about other considerations.
293, 294, 299 305	16. Healthy waterways	Amendment of s 266 (Applying for permit to destroy vegetation, excavate or place fill in a watercourse) Removing the requirement for a RPP to destroy vegetation	Healthy Waterways submits that it "…has strong scientific evidence that demonstrates the benefits of retaining and increasing vegetation within watercourses, wetlands and floodplains. To reduce community risks and economic loss to individuals and local governments it is critical that a whole of government approach be developed that enhances the ability of vegetation in watercourses to mitigate risks. [attachment provided with submission on the benefits of vegetation adjacent to watercourses]. For riparian zones to provide the critical services of riverbank stability, flood risk reduction, water quality improvement and general river health improvement, including biodiversity, it is essential that above and below ground vegetation is maintained and enhanced. Removal of the above ground vegetation will eventually result in loss of the bank stability provided by the below ground (roots). The removal of this requirement, that helps to focus community and government attention on the values of vegetation within watercourses, is likely to result in poorly planned modification to watercourses that will increase public risks and community recovery costs, following extreme weather events (e.g. floods). Healthy Waterways would like to work with state and local governments as well as community groups to identify appropriate solutions for entire river systems to reduce individual and community risk. These solutions need to include the ability for landowners to make necessary modifications to the riverfront and floodplain without unreasonable delays. We believe a collaborative solution can be found that will reduce community risks and streamline approval for landowners. Recommendation: This amendment is removed. A new amendment is drafted to facilitate the	The concerns raised by Queensland Conservation are beyond the scope of the amendments to the riverine protection framework in the *Water Act 2000* made by the Bill. By way of background, the purpose of the amendment is to remove the requirement for a person to obtain a riverine protection permit to destroy vegetation in a watercourse, lake or spring, and to ensure that all vegetation clearing-related activities are regulated under one regulatory framework. The amendment does not remove a person's obligation to comply with other relevant legislation, such as the *Vegetation Management Act 1999*. As such, the effects of the amendments to the riverine protection framework are considered low risk. The department acknowledges that there will be some circumstances where there will be no regulation, approval or self-assessment required to destroy vegetation in a watercourse, lake or spring. It is approximated that this will occur in less than 10 cases annually. The statement made by Queensland Conservation that

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			development of a collaboratively developed catchment vegetation plan. This plan would assist in the issuing of permits for minor works, removing unnecessary delays in process." (sub 16, p.2)	'removal of the above ground vegetation will eventually result in loss of the bank stability provided by the below ground (roots)' is a general one. Ultimately, the impacts on bank stability will depend on the vegetation being removed. The type of vegetation most commonly found within watercourses is referred to as primary colonisers. These plants are the first to start to grow and are often short-lived varieties that are adapted to reshoot quickly from ground level. Queensland Conservation's recommendation in relation to the development of a catchment vegetation plan is not relevant to this amendment or to the *Water Act 2000* which is primarily concerned with protecting the physical integrity of a watercourse, lake or spring. Queensland Conservation's recommendation could more appropriately be addressed in the *Vegetation Management Act 1999*.
293, 294, 299, 305	2. Wildlife Preservations Society of Queensland	Removing the requirement for a riverine protection permit to destroy vegetation	The Wildlife Preservation Society of Queensland submits that "…we feel that the requirement to obtain a riverine protection permit for the destruction of vegetation in a watercourse, lake or spring should remain, in order to ensure that any proposed vegetation clearing is undertaken within strict guidelines to minimise any harm to environmental values or the stability of the banks of the watercourse, lake or spring. We note that there is the proposal to *retain an exemption in schedule 24, part 1, item 1 of the Sustainable Planning Regulation 2009 to allow the clearing of an area of vegetation (less than 0.5 ha) in a watercourse, lake or spring where the clearing is a necessary and unavoidable part of excavating or placing fill in a watercourse, lake or spring and the excavating or placing of fill is either authorised by a riverine protection permit or carried out under a chief executive approved guideline*. *Retaining this exemption (to this extent) will ensure there is no duplication of approvals.* We are in favour of this proposal, but think, as stated, that the requirement for a riverine protection permit should remain in place for any proposed destruction of vegetation, to ensure that appropriate and adequate safeguards are in place." (Sub 2, pp.1-2)	The concerns of the Wildlife Preservation Society are noted. To minimise any harm to the environmental values or the stability of the banks of the watercourse, lake or spring, clause 294 of the Bill provides that the chief executive must, before deciding whether to issue a riverine protection permit to excavate or place fill where the destruction of vegetation is a necessary and unavoidable consequence, consider the type, quantity and/or position in the watercourse, lake or spring of the vegetation to be destroyed in order to consider the effects on the physical integrity of the watercourse, lake or spring.
293, 294, 299, 305	11. Queensland Farmers' Federation	Removing the requirement for a riverine protection permit to destroy vegetation	"QFF supports this amendment which will remove an overlap between the *Water Act 2000*, the *Vegetation Management Act 1999* and the *Sustainable Planning Act 2009*." (Sub 11, p,.3)	The Department thanks the QFF for their support of the proposed amendments.
293, 294, 299, 305	14. WWF-Australia		WWF submits that "…the proposed change is to remove the requirement under the *Water Act 2000* to obtain a Riverine Protection Permit (RPP) for clearing of vegetation within a watercourse, lake/wetland or spring. The explanatory notes characterises the change as removing an overlap with	The concerns raised by the WWF are noted. The department acknowledges that there will be some circumstances where there will be no regulation, approval or self-assessment required to destroy

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			approvals required under the *Vegetation Management Act 1999* (VMA) - so that "all clearing/destruction of vegetation is regulated under one framework in Queensland". This characterisations of the proposed amendments is inaccurate. Whilst there is some area of overlap, there are many instances where approval for clearing of watercourse vegetation requires a Water Act approval but not an approval under the VMA. Therefore, the amendment means that many watercourses will now be open to vegetation clearing. The RPPs under the Water Act apply to all watercourses and therefore all vegetation in watercourses is protected. The Vegetation Management Act only protects certain classes of vegetation including: remnant, high value regrowth, and riparian regrowth in three GBR catchments. The amendment therefore means many watercourses will no longer be protected from vegetation clearing. If other foreshadowed amendments to the VMA go through the extent of watercourses exposed will increase. WWF conservatively estimates (based on Queensland Government data on watercourses and protected vegetation) that around 100 000 kilometres of waterways will now be able to be cleared. About 60 000 kilometres will be open for clearing in the Fitzroy catchment alone. Of the remaining 40 000 kilometres a large proportion is contained in the South East Queensland catchments. The economic and environmental implications Vegetated lakes, springs and watercourses provide a range of environmental and economic benefits. Vegetated waterways are critical for a range of government objectives to be met. Due to the timeframes for consultation this is a very high level analysis. The Government should undertake a thorough investigation of how the proposed amendments will impact on these issues. • Poor drinking water quality: The recent floods in South East Queensland led to water supply challenges due to the amount of sediment flowing into dams overwhelming water treatment plants. Clearing of waterways in SEQ would significantly increase the amount of sediment flowing into water supply dams during floods and in more normal flow events (Moreton Bay would also have significantly increased sediment deposition and consequent impact on marine health). • Flooding will be exacerbated: Vegetated watercourses slow the flow of water and therefore reduce both the extent and speed of downstream flooding. Clearing of watercourse vegetation will increase flood risk. The consequences of vegetation clearing on flooding can be modelled, and should be undertaken. • Invasive Weeds: Canopy vegetation in watercourses reduces light reaching the ground and therefore significantly supresses the establishment and growth of weeds. Clearing of watercourse vegetation would provide a perfect environment for the proliferation of invasive weeds. • Reef Water Quality Protection Plan: The removal ofRPP vegetation protection would mean that targets for watercourse and wetland protection will not be met, and meeting targets for reductions in sediment load will be much more challenging	vegetation in a watercourse, lake or spring. It is approximated that this will occur in less than 10 cases annually. There are a low number of riverine protection permits issued solely for destroying vegetation. Most applications for a riverine protection permit relate to more than one activity. In the 2011-2012 financial year, 131 riverine protection permits were issued. Of those, 47 related to vegetation clearing and excavation or placement of fill, and only one related solely to vegetation clearing. The provisions in the *Water Act 2000* will continue to ensure that bank stability is maintained and the physical integrity of a watercourse, lake or spring is protected as the requirement to obtain a riverine protection permit to excavate or place 'fill' in a watercourse, lake or spring will be retained. Fill includes vegetative material below the surface (dead or alive) such as root masses which plays an important role in maintaining bank stability. In effect, a person will not be required to obtain a riverine protection permit to destroy vegetation above the surface in a watercourse, lake or spring. However, if vegetative material below the surface is to be excavated, a riverine protection permit will be required to excavate fill.

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			and expensive. • Biodiversity: Vegetated watercourses and wetlands are in themselves hotspots for biodiversity but they also act refugia in times of drought as well as providing corridors between larger habitat areas. Recommendations There has simply been insufficient analysis of the scale and consequences of amendments to Riverine Protection Permits. Such an analysis must occur before these amendments are progressed. If the aim is, as claimed, to remove duplication, the protection of all watercourse vegetation should be transferred to the VMA as part of the amendments." (Sub 14, p.2)	
	13. Great Barrier Reef Marine Park Authority	Checks on localised river works	GBRMPA submit that "…amendments to the *Water Act 2000* and the *Vegetation Management Act 1999* possibly relax or remove checks on localised river works. Allowing greater self-governance of River Improvement Trusts, such as approval of their own annual work program, may lead to Australian and Queensland Government interests not being reflected in local planning (especially State interest in protecting wetlands and water quality in the Great Barrier Reef catchment). This may lead to potential impacts on water quality and fish habitat important to the health of the Great Barrier Reef." (Sub 13, p.1)	The only amendment made to the *Vegetation Management Act 1999* is a technical amendment to correct references to the' Vegetation Management Watercourse Map'. That amendment has no bearing on the activity of River Improvement Trusts. The amendments in the *River Improvement Trust Act 1940* do not provide the River Improvement Trusts with the power to approve their own annual works programs. The only change being made in that regard by the Bill is a streamlining amendment that will allow the annual works programs to be approved by the chief executive of The Department rather than by the Minister. The Minister will still receive advice about the works program after its approval by the chief executive. This amendment is designed to make the approval process faster but will not result in the removal of government scrutiny of annual works programs.
293, 294, 299, 305	15. Ergon Energy	Removing the requirement for a riverine protection permit to destroy vegetation	Ergon Energy supports this amendment. Ergon submits that "…the Water Act requires a permit for destroying vegetation in a watercourse, lake or spring (known as a riverine protection permit). The Bill proposes to remove this requirement on the basis that the requirement is a duplication of other permit requirements under the *Vegetation Management Act 1999* (VMA) and *Sustainable Planning Act 2009* (SPA). This amendment would be beneficial for Ergon Energy. Ergon Energy is required to obtain riverine protection permits for clearing of endangered and of concern vegetation in road reserves (which is where Ergon Energy endeavours to place much of its infrastructure). This requirement for a riverine protection permit is unnecessary, because Ergon Energy is mostly not otherwise required to obtain clearing permits under the VMA and SPA. It squarely can be considered as red or	The Department thanks Ergon Energy for their support of the proposed amendments.

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			green tape. The current requirement for a riverine protection permit can cause delays to a customer connection and can increase the costs associated with providing the connection. The removal of the Water Act requirements is supported, particularly because it arises in circumstances where Ergon Energy does not otherwise need any clearing permit." (Sub 15, p.1)	
	18. AgForce Queensland	Removing the requirement for a riverine protection permit to destroy vegetation	AgForce submits that "…the Bill proposes to amend the Water Act to remove the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring, so that clearing is solely regulated under the framework provided in the *Vegetation Management Act 1999* and the *Sustainable Planning Act 2009.* A person will still be required to obtain a riverine protection permit to excavate or place fill in a watercourse, lake or spring, which includes vegetative material below the surface which plays an important role in bank stability. AgForce supports this amendment to significantly simplify the regulation of vegetation management by bringing it under a single umbrella while retaining protections of sustainability and bank stability." (Sub 18, p.3)	The Department thanks AgForce for their support of the proposed amendments.
264	2. Wildlife Preservations Society of Queensland	Removing Declared Catchment Areas	The Wildlife Preservation Society of Queensland submits that "…existing Declared Catchment Areas should remain in place to ensure that no land use activities will have adverse impacts on water quality in the catchment, notwithstanding possible over regulation. It is critical to the health and water quality of the waterways in a catchment that there are no adverse impacts from any activities on land in the catchment area." (Sub 2, p.2)	The legislative amendments in the Bill have been developed to meet the Government's commitment to reduce red tape on business and the community. In developing amendments, the Department has fully considered the implications of removing provisions from *Water Act 2000* and has assessed whether the alternative arrangements effectively meet the policy objectives of the current Government.
264	18. AgForce Queensland	Removing Declared Catchment Areas	Agfoce submits that "…as for LWMPs, AgForce supports the removal under s 264 of Declared Catchment Areas (DCAs) as an inactive mechanism to control land use activities that may have an adverse impact on water quality in a water storage, lake or groundwater area. The provisions duplicate the role of planning schemes, local planning policies, other Sustainable Planning Act instruments, and the Environmental Protection Act, e.g. intensive animal industries. This removal reduces duplication and red tape." (Sub 18, p.4)	The Department thanks AgForce for their support of the proposed amendments.
228	3. Queensland Conservation	Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)	Conservation Queensland recommends that clause 228 of the Bill should be deleted and that "…the rationale for removing the requirement to obtain a licence under the *Water Act 2000* to interfere with a watercourse due to perceived duplication with the *Environmental Protection Act 1994* is flawed for the following reasons: - The *Environmental Protection Act 1994* does not contain any provisions that specifically protect the biophysical integrity of water resources Conditions attached to Environmental Authorities generally apply to development sites. In comparison, licences to interfere with watercourse under the Water Act 2000 generally assess potential impacts to regional Environmental Flow	DNRM and DEHP are working together to develop a memorandum of understanding which will guide the assessment of those diversions to which the amendment to section 20 applies. DNRM and DEHP are also working together to develop standard conditions and a guideline for assessing applications. These arrangements are designed to ensure that issues that are usually considered as part of the grant of a water licence, including those identified by the submitter, continue to be considered.

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			Objectives (EFO) and Water Allocation Security Objectives (WASO) contained in Water resource Plans. (Sub 3, p.5) Due to the above deficiencies there is a very high risk that significant adverse social, economic and environmental impacts will occur as a result of removing the requirement for mining proponents to obtain a licence to interfere with watercourses and relying on the *Environmental Protection Act 1994* to protect biophysical integrity of waterways." (Sub 3, p.5)	
228	4. Queensland Resources Council	Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)	The Queensland Resources Council supports these amendments to allow, for example, petroleum tenure holders constructing water monitoring bores or water observation bores without the need for a water entitlement. (Sub 4, p.3)	The Department thanks QRC for their support of the proposed amendments.
228	10. Sunwater Limited	Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)	SunWater in its submission noted the following provisions of the *Water Act 2000* (Qld) relating to the current process for granting water licences: *"Section 209 Applications that may be decided without public notice* *(1) If the granting of the application would be inconsistent with a water resource plan, a resource operations plan or a wild river declaration, the chief executive must refuse the application without notice of the application being published.* and *Section 210 Criteria for deciding application for water licence* *(c) any water resource plan, resource operations plan and wild river declaration that may apply to the licence;* As the committee may be aware, SunWater is responsible, in many instances for supplying water via 'watercourses' under the 21 resource operations licences granted through the various water resource plans and subsequent resource operations plans across the state. The proposed wording appears to assume that the impacts of interference are only applicable to the environment. This means that, if adopted, the potential for a water-course diversion to impact upon allocation and use of water, especially within SunWater Water Supply Schemes, may no longer be considered as part of the approval process. SunWater therefore propose additional wording to the current wording contained within Clause 228 s 20 (68). SunWater's proposed text is shown in bold italics below: *A person may interfere with water if-* *(a) the interference is a diversion of a watercourse and is associated with a resource activity; and* *(b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and* *(c) the environmental authority was granted with a condition about the diversion of the watercourse; and* *(d) the watercourse to be diverted is not within the area covered by an Interim Resource Operations Licence, Resource Operations Licence or Distributions Operations Licence area."* (Sub 10, pp.2-3)	DNRM and DEHP are working together to develop a memorandum of understanding which will guide the assessment of those diversions to which the amendment to section 20 applies. DNRM and DEHP are also working together to develop standard conditions and a guideline for assessing applications. These arrangements are designed to ensure that issues that are usually considered as part of the grant of a water licence continue to be considered. In relation to consultation with SunWater, SunWater will be able to make submissions on proposed diversions proposals as part of the environmental approval process.
229 - 230	3. Conservation Queensland	Postponing expiry of water resource plans	Queensland Conservation submits that ..giving the Minister discretionary powers to postpone the expiry of Water Resource Plans could lead to a wide range of perverse and unintended outcomes. To avoid perverse and unintended outcomes	The Department does not share the same concern that there is a wide range of perverse and unintended outcomes that could occur as a result of the Minister's

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288			from occurring, Queensland Conservation recommends that specific accountabilities and criteria should be established to guide the Minister's decisions to postpone the expiry of a Water Resource Plan."(Sub 3, p.2)	decision to postpone the expiry of a water resource plan. Before postponing the expiry of a water resource plan, the Minister must be satisfied that the postponement will not adversely affect water entitlement holders or natural ecosystems, and call for submissions on the proposal to postpone the expiry of a water resource plan. The Minister must consider all properly made submissions about the proposal before deciding to postpone the plan. The Minister must also consider whether the plan's objectives/strategies continue to be appropriate for the plan area; and any periodic reports about the plan. The Minister's decision to postpone the expiry of a water resource plan will be subject to parliamentary disallowance.
229 - 230 288	18. AgForce Queensland	Postponing expiry of water resource plans	AgForce submits that "…under the *Water Act 2000*, the Minister must plan for the allocation and sustainable management of water to meet Queensland's water requirements, which requires preparing WRPs and ROPs. The Bill proposes that the water resource planning provisions of the Water Act be amended to remove WRPs from the automatic expiry provisions (s 230) and to allow the Minister to postpone the expiry of a WRP for up to a total of 10 years. AgForce are not opposed to the additional flexibility that this amendment would bring to the Government and enable greater focus to be brought on those WRPs that may not be achieving their purposes, so that improved planning outcomes can be achieved. A 20-year maximum period of WRP operation appears appropriate. Given the time periods WRPs operate under and the need to clearly identify if the WRP is achieving its objectives, including any adverse effects of postponement on entitlement holders or the environment, AgForce would submit that a minimum 20-day public consultation period is not sufficient to do this fully and that 30 business days would be preferable. The submissions process is vital in determining if a WRP is still relevant and appropriate and to enable stakeholders to identify to Government any adverse effects that are occurring. The proposed amendment under s 230 includes new ss 52B (6) that the Minister may decide to postpone the expiry if 'the Minister reasonably believes the postponement will not adversely affect water entitlement holders or natural ecosystems in the plan area'. For clarity this wording should be such that a full 'triple bottom line' assessment is clearly intended rather than an examination of either the entitlement holders or the environment." (Sub 18, p.2)	The Department notes Agforce's submission that a 30 day business day consultation period would be preferable to the 20 day period provided in the Bill. It should be noted that it is intended that the proposed new subsection 52B(6) be read inclusively to provide for an assessment of the impacts on both water entitlement holders and the environment. The Department will seek further advice from Queensland Office of Parliamentary Counsel prior to debate.

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232	3. Queensland Conservation	Omission of ch 2, pt 3, div 3, sdivs 4-6 Removing the requirement for land and water management plans.	Conservation Queensland recommends that rather than being removed from the Act, the Land and Water Management Plan framework should be reviewed and updated. Queensland Conservation submit that removing the requirement from the *Water Act 2000* for property owners to develop and implement a land and water management Plan will significantly reduce the range of options the department can utilise to address causes of land and water degradation. (Sub 3, p.5)	There are a range of options to address the causes of land and water degradation under the existing water use plan framework as water use plans have very broad applicability and may be prepared for any part of Queensland. The risks addressed by water use plans are very similar to land and water management plans, including but not limited to the following: (a) rising underground water levels; (b) increasing salinisation; (c) deteriorating water quality; (d) waterlogging of soils; (e) destabilisation of bed and banks of watercourses; (f) damage to riverine environment; (g) increasing soil erosion.
252 - 254	10. Sunwater Limited	Dealing with surrendered or forfeited interim water allocations	SunWater notes the reasons for the proposed amendment as outlined in the Summary of Land, Water and Other Legislation Amendment Bill 2013 by Act and accepts the need to provide flexibility for the chief executive in dealing with surrendered and forfeited Interim Water Allocations. However, SunWater contends that such provisions should not apply to water allocations, created though a statutory process under a Water Resource Plan (WRP) and subsequent Resource Operations Plan (ROP), as these allocations are permanent in nature and recognised in law as property rights. (sub 10, p.4)	The amendments provided by the Bill relate to surrendered or forfeited interim water allocations. However, in some cases forfeited or surrendered interim water allocations may exist in schemes where a water resource plan and resources operations plan have been completed. In such cases it is necessary to provide for the conversion of these interim water allocations in a manner consistent with the plans. The conversion of these interim water allocations reflects that they have been included in the modelling for plan area and are secure water entitlements.
252 - 254	18. AgForce Queensland	Dealing with surrendered or forfeited interim water allocations	AgForce submits that "…interim water allocations managed under a Resource Operations License may be forfeited or surrendered and are required to be dealt with as if they were forfeited water allocations. Forfeited water allocations are mandated to be sold but this is not always desirable, for example, where a particular supply scheme is over allocated and the preference would be to cancel the interim water allocation, potentially increasing the reliability of supply for other users in the water supply scheme. The amendments in the Bill will provide flexibility by creating alternative option/s to the current mandatory requirement to sell them. AgForce would support this amendment where the process is equitable to existing water holders involved in the supply scheme, including not disproportionately increasing their cost of water supply." (Sub 18, p.5)	The Department thanks AgForce for their support of the proposed amendments. The Bill as drafted is consistent with current Queensland Government policy. New section 197A inserted by clause 254 of the Bill provides the Chief Executive with a broad discretion in to deal with forfeited or surrendered interim water allocations.
259 - 262 288	11. Queensland Farmers' Federation	Extending the term of water licences	QFF supports the proposal to extend all current water licences to 30th June 2111. QFF submits that "…current and new water licences must be consistent with water resource plans and resource operations plans now and in the future so there is no need to renew licences every ten years." (Sub 11, p.2)	The Department thanks QFF for their support of the proposed amendments.

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259 - 262 288	13. Great Barrier Reef Marine Park Authority	Extending the term of water licences	GBMPA submits that "… proposed amendments to extend the life of current water licences from 10 years to 100 years means that the strategic review process will be lost, possibly leading to over allocation and a loss of environmental flows (particularly under El Nino conditions). The shorter licence period was originally in place to enable review of the wider water management implications of the licence." (Sub 13, pp.1-2)	The submitter is correct in that the water licence renewal process was originally designed to provide an opportunity to review the licence and implement any changes to natural resource management policy that may have occurred during the licence period. However, water resource plans and resource operations plans now cover over 90 per cent of the State and are the principal mechanism for ensuring the sustainable management and allocation of water in Queensland. What this means is that the strategic review process will not be lost but will occur through the development of water resource plans and resource operations plans. As a result, the review of water licences is no longer necessary and water licences may be granted for longer periods. This legislative change reflects that in practice, the majority of water licence renewals are approved without variation.
256 - 262 288	16. Healthy Waterways	Extending the term of water licences	Healthy Waterways submits that "…the proposal to extend the term of water licences until 30 June 2111 provides a false sense of security to landowners and anyone who has extractive water licenses. This is because it will limit the government's ability to protect water resources from over extraction, if conditions change over the next 99 years. Extending extractive licences where very little is understood about the ability of the water resource to continue to meet demand is likely to cause unnecessary social and financial hardship on communities if water resources are unable to meet licencee expectations in the future. If climate variability or other changes to water availability reduce the water resource, this amendment will limit the community's ability to prioritise water use during dry periods, by prioritising individual licence holder's requirements over community values. There is also the additional issue that during the last drought significant bed and bank disturbance was caused, by landowners attempting to access limited water supplies. It is important that if any change occurs to water licences that this is linked to a new condition that requires licensees to mitigate any disturbance caused by the extractive equipment so as to prevent an increase in risk to downstream users, including downstream drinking water storages. Recommendation The extension to the term of existing water licences be in line with other	The extension of the term of a water licence does not change the chief executive's alibility to review, amend or cancel water licences where appropriate. This includes, for example, the ability to impose appropriate conditions. In particular, water licences may be reviewed as part of the development, amendment or review of water resource plans and resource operations plans. Climate variability is considered as part of the modelling undertaken in the development of these plans. In addition, the chief executive may limit water that may be taken or interfered with under a water licence where there is a shortage of water. These existing mechanisms enable the chief executive to ensure water licences are consistent with broader water planning strategies and management

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			government strategic and/or planning documents (10 years for Water Resource Plans or 30 years for strategic documents not impacted by a Water Resource Plan). That any extensions to water licences include a condition that in-stream modification cannot cause an increase in risk to downstream water users, either due to an increased erosion hazard, caused by the in-stream extraction equipment, or increased sediment load due to disturbance to the river bed or bank." (Sub 16, p.3)	arrangements.
256, 257 - 262, 288	17. Dr Geoff Edwards	Extending the term of water licences – "Inappropriate gift of tenure from citizens"	Dr Edwards submits that "…the fourth point is a specific one. The extension of water licences for 98 years would appear to be a gift of secure tenure from the State to the holders of these instruments. One looks in vain for a provision that would extract a commercial return for this gift, which in effect is a creation of a property right granted by the community to private individuals or firms without effort on their part. Furthermore, there is a wide difference between a permit that expires after 20 years (even if then renewed several times) and one that does not expire for another 98 years. The onus changes: from the applicant to justify why a renewal should be granted, to the State to justify withdrawal or alteration. Furthermore, the renewal period gives an opportunity to consider circumstances obtaining at that time. Given climate change and given the progress made in water resource planning in the past 10 years, it would be a service to both licence holders and the State to have a regular opportunity to review these conditions without needing to pay compensation." (Sub 17, p.2)	Whilst it is acknowledged that it may be considered that the extension of all water licences until 30 June 2111 may increase the value of individual properties, the extension does not create a right of tenure. Importantly, the extension of water licences will not mean that a water licence can not be modified or cancelled until 30 June 2111. Existing provisions such as those requiring water licences to be amended for consistency with water resource plans and resource operations plans have been retained and will ensure the continued suitability of water licences in the context of broader water planning and management strategies.
256, 259 - 262, 288	18. AgForce Queensland	Extending the term of water licences	AgForce submits that "…the Bill (s 262) seeks to extend all current water licences to 30 June 2111 and all new water licences will be granted until that date (i.e. 99 years) unless otherwise stated by a WRP or ROP or Wild Rivers declaration. This amendment will reduce the regulatory and cost burden on water license holders and AgForce supports this amendment. Given that water resource plans (WRPs) and resource operations plans (ROPs) are the principal water planning mechanism for ensuring the sustainable management and allocation of water in Queensland, it is unnecessary for the Government to utilise licence renewals to achieve natural resource management objectives." (Sub 18, p.2)	The Department thanks AgForce for their support of the proposed amendments.
256, 259 - 262, 288	3. Queensland Conservation	Extending the term of water licences	Queensland Conservation opposes the proposed extension of water licences by 99 years on the grounds that: - it will severely restrict the department's ability to implement any changes to water resource management policy in the parts of the State where Water resource Plans and resource Operation Plans have not been developed - it is out of step with other Queensland Government long term planning initiatives such as the 20 Year Water Sector Strategy, 30 Year Electricity Strategy and the recently announced 30 year Queensland Plan. (Sub 3, p.2)	The extension of the term of a water licence does not change the chief executive's alibility to amend or cancel water licences where appropriate. These existing powers apply across the State, including those areas where water resource plans and resource operations plans do not apply. The submitters concerns regarding the alignment with other planning initiatives is noted.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
256, 259 - 262, 288	3. Queensland Conservation	Extending the term of water licences	Queensland Conservation recommends that the current 10 yearly water licence renewal process should be retained in parts of the state where Water Resource Plans and resource Operation Plans have not been established, and that the proposed 99 year extension of water licences be reduced to 30 years in order to be aligned and consistent with other Queensland Government long term planning initiatives.(Sub 3, p.2)	The extension of the term of a water licence does not change the chief executive's alibility to review, amend or cancel water licences where appropriate. These existing powers apply across the State, including those areas where water resource plans and resource operations plans do not apply. The Bill proposes to enable the Minister to extend the current 10 year life of a water resource plan to 20 years. As water licences may be reviewed as part of the development, amendment or review of water resource plans and resource operations plans it is not considered necessary to limit their expiry date to 30 years.
256, 259 - 262, 288	11. Queensland Farmers' Federation	Extending the term of water licences	QFF supports the proposal to extend all current water licences to 30th June 2111. Current and new water licences must be consistent with water resource plans and resource operations plans now and in the future so there is no need to renew licences every ten years. (Sub 11, p.2)	The Department thanks QRC for their support of the proposed amendments.
232	13. Great Barrier Reef Marine Park Authority	Removing the requirement for land and water management plans	"The Great Barrier Reef Marine Park Authority requests that "…the Queensland Government reconsider the proposed removal of the requirement for water title holders proposing to undertake irrigation to prepare land and water management plans. The Queensland Government noted that the current framework is not achieving its intended objectives- the Great Barrier Reef Marine Park Authority notes that the Queensland Government has yet to implement many of the tools and water quality targets required to ensure that these plans are effective and managed in an integrated and strategic manner." (Sub 13, p.2)	The existing water use plan framework is an integrative and strategic mechanism to manage land and water degradation risks, as it has very broad applicability to any part of Queensland and is strategically targeted to areas of high risk. A water use plan identifies outcomes that landholders are required to achieve to deal with degradation issues such as rising groundwater levels and salinization. It may specify how individuals are to meet the objectives, including setting standards for water-use practices and water quality targets. The risks addressed by water use plans are very similar to land and water management plans, including but not limited to the following: (a) rising underground water levels; (b) increasing salinisation; (c) deteriorating water quality; (d) waterlogging of soils; (e) destabilisation of bed and banks of watercourses; (f) damage to riverine environment; (g) increasing soil erosion.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
232	18. AgForce Queensland	Removing the requirement for land and water management plans	AgForce submits that "…the amendment (s 232) will remove the requirement for entitlement holders proposing to undertake irrigation to prepare property-scale land and water management plans (LWMPs). AgForce is supportive of the amendment in order to reduce the regulatory burden on irrigators and place greater emphasis on individual management of any property-level environmental risks. Primary production industries, including beef and grains, are proactively implementing best management practice (BMP) programs that encourage sustainable practices and a voluntary, education-based approach to these issues. This is seen as preferable to a complex regulatory approach and the capacity of the Government to implement targeted water use plans to manage impact risks on a landscape scale will be retained and this is appropriate for managing any particular high-risk areas." (Sub 18, pp.3-4)	The Department thanks AgForce for their support of the proposed amendments.
290	3. Queensland Conservation	Replacement of s 20 (Authorised taking of, or interference with, water without water entitlement)	Queensland Conservation recommends that clause 290 of the Bill should be deleted. Queensland Conservation submit that "…depending on the volume, location and longevity, there is a significantly high risk that adverse impacts will occur from increasing the take of unregulated water for additional purposes. Potential impacts include: - Reducing the reliability of authorised water users' entitlements - Causing adverse environmental impacts - Reducing the reliability and accuracy of water planning assumptions." (Sub 3, p.6)	The amendments to section 20 are considered low risk to the sustainable management of water resources as they are activities with minor consumptive take. The further specification of some of the activities for which water may be taken will further clarify the low risk activities these amendments are designed to capture. In addition, in some instances the take of/interference with water under section 20 may only be authorised by a water resource plan or may be limited by a water resource plan, moratorium notice or wild river declaration. These mechanisms will allow the department to tailor the areas and circumstances in which water may be taken or interfered with under this authorisation and ensure that the take of water authorised under clause 290 is consistent with the water management and planning approach applied in that area. These mechanisms also provide an avenue through which the submitters concerns may be addressed.
290	18. AgForce Queensland	Replacement of s20 (Authorised taking of, or interference with, water without water entitlement)	AgForce submits that "…section 20 of the Water Act authorises the take of water without a water entitlement in limited circumstances where the activity is seen as of low risk to sustainable water resource management. These include water for camping and travelling stock, interfering with overland flow or sub-artesian water (unless otherwise regulated under a moratorium, WRP or wild rivers declaration), and riparian access and overland flow collection for stock and domestic water. The amendment (s 290) seeks to extend these exemptions. AgForce supports including the take of water for firefighting purposes generally and for carrying out certain activities prescribed under a regulation (e.g. dairy wash	The amendments to section 20, including those authorising the take of water for Aboriginal or Torres Strait Islander parties, are considered low risk to the sustainable management of water resources as they are activities with minor consumptive take.

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			downs, weed wash downs, filling chemical spray units) as a common sense approach to these urgent activities. We are also supportive of the extension of the exemptions applied to stock and domestic use to where there is water collected in a dam and stock lawfully accesses the foreshore, and also to adjoining lands within the same ownership. The provision of water to an Aboriginal party or Torres Strait Islander party for cultural purposes should ensure that it does not result in adverse third party impacts on existing water right, allocation and entitlement holders in a catchment, including indigenous landholders. We welcome the clarifying statement under s 290 (20B (2)) of the Bill that indicates that a cultural purpose does not include a commercial activity. Indigenous water entitlements for contemporary economic use should be acquired using existing market mechanisms as for other contemporary economic uses, including agriculture. Further, the community must have confidence that resource sector environmental authority assessments around watercourse diversions are undertaken by the relevant departments in a comprehensive and deliberate manner and that development is appropriately conditioned to minimise adverse impacts. AgForce are generally supportive of the proposed amendments within the Bill to Section 20 of the Water Act as enabling greater flexibility and access without additional administration requirements." (Sub 18, p.4)	
293 294 299 305	3. Queensland Conservation	Removing the requirement for a riverine protection permit to destroy vegetation	Queensland Conservation recommends that clauses 293 and 294 should be deleted from the Bill. They submit that "…due to the critical role it provides in underpinning Queensland's prosperity, it is essential that riparian vegetation is protected under robust legislation in order to ensure the biophysical integrity of waterways are maintained. Riverine Protection permits are an essential 'check and balance' mechanism under the *Water Act 2000* to ensure that environmental degradation does not occur from development activities in waterways. Removing the requirement to obtain a Riverine Protection permit to destroy above ground parts of riparian vegetation essentially disregards the purpose of the *Water Act 2000*, which is to advance the sustainable management and efficient use of waters of the State."(Sub 3, p.3) "The rationale for removing the requirement to obtain a Riparian Protection Permit to destroy vegetation above ground parts of riparian vegetation from the *Water Act 2000* due to perceived duplication with the *Vegetation Management Act 1999* is flawed due to the following reasons: - The *Vegetation Management Act 1999* does not contain provisions that specifically protects the biophysical integrity of waterways - While section 19(2) of the *Vegetation Management Act 1999* enables the Minister to declare an area that is vulnerable to land degradation, enacting this provision is at the Minister's discretion – which can be swayed due to political and other imperatives - The purpose of Riparian Protection Permits under the *Water Act 2000* is to	The department acknowledges that there will be some circumstances where there will be no regulation, approval or self-assessment required to destroy vegetation in a watercourse, lake or spring. It is approximated that this will occur in less than 10 cases annually. There are a low number of riverine protection permits issued solely for destroying vegetation. Most applications for a riverine protection permit relate to more than one activity. In the 2011-2012 financial year, 131 riverine protection permits were issued. Of those, 47 related to vegetation clearing and excavation or placement of fill, and only one related solely to vegetation clearing. Removal of the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring under the *Water Act 2000* presents a low risk to the physical integrity of a watercourse, lake or spring. More specifically, a person will still be required to obtain a riverine protection permit to excavate

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			ensure that degradation to water resources does not occur from undertaking activities in watercourses. In comparison, applicable provisions (s19) in the *Vegetation Management Act 1999* only apply once degradation has occurred."(Sub 3, p.4)	vegetative material below the surface (such as root masses) which plays an important role in bank stability. In deciding whether to grant or refuse an application for a riverine protection permit to excavate or place fill in a watercourse, lake or spring, or what should be the conditions of the permit, the chief executive must consider the type, quantity and position of the vegetation that may be destroyed as a necessary and unavoidable part of excavating or placing fill. This will enable the chief executive to, for example, consider the effects on the physical integrity or water quality of a watercourse, lake or spring. The chief executive can also condition a riverine protection permit to require rehabilitation post-excavation or replacement of fill to, for example, restore bank stability.
293 294 305	4. Queensland Resources Council	Removing the requirement for a riverine protection permit to destroy vegetation	The Queensland Resources Council supports amendments to the *Water Act 2000* to remove the requirement, in some circumstances, for both a riverine protection permit under the *Water Act 2000* and a vegetation clearing permit under the *Vegetation Management Act 1999*. (Sub 4, p.3)	The Department thanks QRC for their support of the proposed amendments.
302 306	3. Queensland Conservation	Regulation of levees	Queensland Conservation submits that applications to construct levees must be assessed against a broad range of social, economic and environmental criteria. (Sub 3, p.2)	Clause 301 of the Bill inserts a new section 969 into the *Water Act 2000*. New section 969 provides criteria that the chief executive must, in exercising jurisdiction for an application to construct or build a new levee, assess the application against. Those criteria address a broad range of issues including: • impacts on the catchment; • benefits to the individual applying for the development approval and the nearby community; • possible adverse impacts on landholders in the catchment; • implications for land planning and emergency management procedures; and • whether any structural, land planning or emergency management measures could be taken to mitigate the possible adverse impacts of the proposed construction or modification. In addition, new section 967 of the Water Act enables

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				a regulation to be made prescribing a code against which the application may, or must, be assessed by an assessing authority. A regulatory impact statement will be published for public consultation prior to the making of the regulation and accompanying code.
301 302 306	16. Healthy waterways	Regulation of levees	Healthy Waterways submits that it "…agrees that there are specific locations where the provision of a levee system to protect individual or community owned infrastructure outweighs any additional risks, caused by the levee, due to changes in water flow. However, the negative impacts of levee construction in the past have been poorly assessed and an expansion of levee systems in Queensland in the future, if poorly managed, could have perverse outcomes that increase risks to community safety as well as infrastructure damage. It is important that any legislative change that supports the development of levee construction ensures the following risks associated with levee development are taken into consideration during any assessment process. Risks posed by levee construction are: • Concentration of flood waters and an increase in the destructive energy of flood water, including an increased risk of flash flooding downstream of levees. • Interference with overland flow of flood water, reducing groundwater recharge. This can increase risks to the security of water supplies that rely on groundwater during dry periods. • Reduced productivity from floodplains that have reduced inundation. The water, sediment and nutrients delivered to floodplains during periods of inundation maintain these areas as regions of high productivity. If levee construction reduced flood inundation of farmland, it is likely that the productivity of the areas that no longer receive regular floods will decline over periods of years to decades. • Waterways and wetland habitats rely on flooding cycles to maintain many of their flora and fauna If flooding cycles are significantly modified it is likely that the services provided by these diverse ecologies will be negatively impacted. Recommendation The amendment to include that a permit to construct levees can only be granted after the results of an assessment of the social, economic and environmental impacts caused by the levee are considered." (Sub 16, p.3)	Clause 301 of the Bill inserts a new section 969 into the *Water Act 2000*. New section 969 provides criteria that the chief executive must, in exercising jurisdiction for an application to construct or build a new levee, assess the application against. Those criteria address a broad range of issues including: • impacts on the catchment; • benefits to the individual applying for the development approval and the nearby community; • possible adverse impacts on landholders in the catchment; • implications for land planning and emergency management procedures; and • whether any structural, land planning or emergency management measures could be taken to mitigate the possible adverse impacts of the proposed construction or modification. In addition, new section 967 of the *Water Act 2000* enables a regulation to be made prescribing a code against which the application may, or must, be assessed by an assessing authority. A regulatory impact statement will be published for public consultation prior to the making of the regulation and accompanying code.
	11. Queensland Farmers' Federation	Other minor amendments	"QFF submits that it "…supports the following: a) Chief Executive correcting any inconsistencies between a water resource plan and a resource operations plan without formal notification b) The transfer, change in location or amalgamation of a water licence by regulation or resource operations plan c) Allowing water authorities to convert directly to private contracts if converting to an alternative institutional structure	The Department thanks QFF for their support of the proposed amendments.

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			d) Remove the need for any formal notification process about the grants of water licences and interim water allocations within The Department" (Sub 11, p.5)	
	18. AgForce Queensland	Other minor amendments	AgForce submits that "…as Section 223 of the Water Act is currently drafted, an applicant whose water licence is not managed under a WRP is required to make a separate application to amend or amalgamate their existing licence with a transferred licence. This limitation was not intended. The Bill (s 263) amends Section 223 to enable the Department to give effect to the transfer of a water licence through a single application and assessment process, saving applicants the time and costs associated with a separate amendment and/or amalgamation application. This streamlining is supported. Amendments to section 1007 seek to remove the need for grants of water licences and interim water allocations to be noted on the land titles register in order to reduce duplication as this information is available by searching the water entitlements registration database at a cost. This amendment has implications for future data collection to support the national register of foreign ownership of agricultural land should it be extended to include water assets. AgForce has supported the inclusion of water assets in the national register and would like to highlight this potential issue to the Committee during its deliberations on this amendment." (Sub 18, p.5)	The Department thanks the submitter for highlighting this potential issue and notes that in the event that a national register of foreign ownership of agricultural land is extended to include water assets there will be a need for this register to recognise the information in the water entitlements registration database.
		Part 20 Amendment of Water Supply (Safety and reliability) Act 2008		
	6. SEQ catchments		SEQ catchments supports the proposed amendments, but has made separate comments in its submission about amending the Act. (Sub 6, p.8)	Noted
307 - 343	1. Pioneer Valley Water Board		The PBWC fully supports the proposed amendments to the *Water Supply (Safety and Reliability) Act 2008*	The Department of Energy and Water Supply thanks the PVWB for their support of the amendments.
		Other comments		
	6. SEQ Catchments		SEQ Catchments has proposed that: - "A major program of advanced catchment management be implemented in South East Queensland in high risk catchments (risk to be determined from science, local knowledge and a matrix approach which considers the potential for impacts on infrastructure, safety and health issues, and water quality issues) - River Improvement Trusts be seriously considered as a mechanism for better coordination of catchment management in high risk catchments. In line with this and to ensure there is no doubt, the objects of the Act should be amended to read "to provide for the resilience, protection and improvement of the bed and banks of rivers and associated flood plains and catchments, the repair and prevention of damage to the bed and banks of rivers, the prevention of flooding and the prevention or mitigation of inundation of certain land by flood waters from rivers; to provide for the constitution of trusts to	The Bill as drafted is consistent with current Queensland Government policy.

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			discharge the foregoing functions; to make financial provision with respect to the discharge of trusts' functions and for related purposes". SEQ Catchments also questions that part of the object of the Act relating to the "prevention of flooding" as this is not practical in variable climate such as that experienced in South East Queensland. We suggest it be changed to "mitigation of flooding" - The Water Act 2000 Declared Catchment Area (s258 and s259) provisions be retained to form the basis for a management unit to deliver catchment management outcomes for high risk catchments - Consideration by given to delegation of the powers in s258 and s259 to suitably qualified positions in a River Improvement Trust - An important focus of a Trust charged with overseeing a DCA should be on on-ground works and outcomes - The revised Trust governance be used as a catalyst to establish an annual program of works which should be delivered by a specialist community based catchment organisation. - A participatory approach involving engagement of landholders and local communities be a cornerstone principle to deliver catchment management outcomes - The existing body of science should be used to inform the catchment risk assessments and the program of works and investment - Investment in the program should be funded using provisions available under the River Improvement Trust Act 1940 and consider incentive programs such as wetland mitigation banking, nutrient trading/offsetting, landholder incentives and the like - A high level standing committee including Ministers with a regulatory interest and affected Local Governments should be established for South East Queensland to oversee the process and outcomes. - The Queensland Competition Authority be asked by their shareholding Ministers to deal with the question "Under what circumstances in South East Queensland do environmental solutions to meeting regulatory requirements provide least cost abatement for water service providers?" (Sub 6, pp.8-9)	

Dissenting Report

Jackie Trad MP, Member for South Brisbane, offers the following dissenting report on the Land, Water and Other Legislation Amendment Bill 2013

The *Land, Water and Other Legislation Amendment Bill 2013* is an omnibus legislative instrument which includes a number of disparate and unrelated amendments to numerous pieces of legislation. Several of these changes are minor and non-controversial, however some amendments are deeply troubling and have the potential to threaten Queensland's unique natural heritage.

Disappointingly, the Government has once again exhibited an unwillingness to engage constructively with the committee inquiry process and with a wide number of interested stakeholders by not providing sufficient time to consider the plethora of amendments contained in the Bill. The paucity of factual information provided by the Government does not instil confidence in the scientific basis for these changes, nor does it assurance in quality of the Government's internal policy processes.

Levees

The *Land, Water and Other Legislation Amendment Bill 2013* acts on recommendations of the Queensland Floods Commission of Inquiry, specifically the introduction of a definition of levee in the *Water Act 2000.* While this is a welcome development and has widespread support, the Government's poor consultation practices have caused unnecessary confusion for stakeholders and the committee.

It is poor form that relevant stakeholders were not consulted prior to the public release of this legislation. The lack of consultation and the inadequate information released with the bill caused unnecessary concern among stakeholders that water infrastructure such as ring tanks would be caught under the definition of levee.

Future Conservation Areas

Future conservation areas were introduced by the former Labor Government in 2008 as a tool to earmark leasehold land for future addition to Queensland's protected area estate. There was little opposition to their introduction, indeed the then Coalition Opposition supported the legislation.

Future conservation areas are required to be managed according to stricter environmental standards. They also enable the Government of the day to clearly signal their intention to transition a piece of leasehold land to the protected area system when the lease ends. While there has been a degree of disquiet concerning future conservation areas among leaseholders it is clear that they do not constitute a significant imposition on the agricultural industry.

It is extremely concerning that the Government is seeking to legislate away this tool to expand the protected area system of Queensland, particularly given a number of other recent decisions by the Government including allowing private development in existing national parks and removing the budget performance measure for the area added to the national park estate.

Riverine Protection Permits

The *Land, Water and Other Legislation Amendment Bill 2013* proposes removing the necessity to obtain a riverine protection permit before carrying out vegetation clearing within watercourses. While the Government has claimed this will have minimal impact on the basis that it will still be regulated under the *Vegetation Management Act 1999,* as the submission

from the World Wildlife Fund (WWF) highlights it is relatively common for vegetation clearing within watercourses to only be managed under the *Water Act 2000.* The WWF submission goes on to state;

> *"WWF conservatively estimates (based on Queensland Government data on watercourses and protected vegetation) that around 100 000 kilometres of waterways will now be able to be cleared. About 60 000 kilometres will be open for clearing in the Fitzroy catchment alone. Of the remaining 40 000 kilometres a large proportion is contained in the South East Queensland catchments."*

Unfortunately the Government has not provided any information on how many waterways will now be left without protection. This is indicative of the dearth of information the Government has supplied to the committee and relevant stakeholders on this bill. It is appalling that the only estimate for the length of waterways without protection has had to be provided by a non-government organisation.

The Government's response to these concerns was that there are only a small number of riverine protection permits granted for the sole purpose of clearing vegetation, with most applications also involving the excavation of waterways. This ignores the issue that vegetation clearing will become more common if it is no longer subject to government approval. There is a serious risk that this legislation and other changes being implemented by this Government will create a culture where destroying vegetation is the norm instead of using Government policy to encourage sustainable management.

The science is clear on the value of riparian vegetation. Vegetation within watercourses decreases erosion risks, reduces turbidity, lessens the impact of flooding and provides valuable habitat for native species. The removal of riverine protection permits will lead to an increase in riparian vegetation clearing and increase the amount of sediment run-off, water turbidity and bank erosion. These changes are likely to have significant detrimental effects on water quality within in Queensland's marine environments, most notably the Great Barrier Reef and Moreton Bay.

Conclusion

There are a number of more minor changes contained within the legislation, the majority of which are uncontroversial. There are further elements of the bill on which the Opposition will be seeking more clarification during the Parliamentary debate. Unfortunately this dissenting report has also identified major issues with the Government's consultation processes and two elements which are not worthy of support.

Jackie Trad MP

Member for South Brisbane