Parliamentary Committees

Water Legislation Amendment Bill 2015

Report No. 19, 55th Parliament

Infrastructure, Planning and Natural Resources Committee

March 2016

Infrastructure, Planning and Natural Resources Committee

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Contents

Chair's foreword

This report presents a summary of the Infrastructure, Planning and Natural Resources Committee's examination of the Water Legislation Amendment Bill 2015.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank those organisations and individuals who lodged written submissions on the Bill, and those who gave evidence at the public hearing.

I would also like to thank the departmental officials who briefed the committee; the committee's secretariat; and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.

Jim Pearce MP
Chair

March 2016

Acronyms

CMA	cumulative management area
committee	Infrastructure, Natural Resources and Planning Committee
CSG	coal seam gas
DEHP	Department of Environment and Heritage
DNRM	Department of Natural Resources and Mines
EDO	Environmental Defenders Office
ESD	ecologically sustainable development
FLP	fundamental legislative principle
GBR	Great Barrier Reef
GBRWHA	Great Barrier Reef World Heritage Area
LGAQ	Local Government Association of Queensland
LTSP	Reef 2050 Long Term Sustainability Plan
LSA	*Legislative Standards Act 1992*
LWMP	land and water management plan
MDL	mineral development licence
MRA	*Mineral Resources Act 1989*
OGIA	Office of Groundwater Impact Assessment
QCC	Queensland Conservation
QRC	Queensland Resources Council
RIT Act	*River Improvement Trust Act 1940*
RPP	riverine protection permit
UWIR	underground water impact report
Water Act	*Water Act 2000*
WROLA Act	*Water Reform and Other Legislation Amendment Act 2014*
WWF	WWF-Australia

Recommendation

The committee recommends the Department of Natural Resources and Mines continues to investigate alternatives for securing water for large scale projects while taking into account the impact on communities.

1 Introduction

1.1 Role of the committee

The Infrastructure, Planning and Natural Resources Committee (the committee) was established by the Legislative Assembly on 27 March 2015 and consists of government and non-government members.

The committee's areas of portfolio responsibility are:[1]

- Infrastructure, Local Government, Planning, and Trade and Investment
- State Development, Natural Resources and Mines
- Housing and Public Works.

1.2 The referral

On 10 November 2015, the Water Legislation Amendment Bill 2015 was referred to the committee for examination and report. In accordance with Standing Order 136(1), the committee is required to report by 1 March 2016.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

1.3 The committee's inquiry process

On 13 November 2015, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of stakeholders. The closing date for submissions was 18 December 2015. The committee received 102 submissions (see Appendix A), of which around 70 were form submissions.

On 30 November 2015, the committee held a public briefing with the Department of Natural Resources and Mines (DNRM) and the Department of Environment and Heritage Protection (DEHP) (see Appendix B). On 15 February 2016, the committee held a public hearing in Brisbane (see Appendix C).

Copies of the submissions and transcripts of the public briefing and hearing are available from the committee's webpage.[2]

1.4 Policy objectives of the Bill

The objectives of the Bill are to:

- align the Water Reform and Other Legislation Amendment Act 2014 (WROLA Act) provisions with Government policy and election commitments

[1] Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 17 July 2015). Schedule 6 was amended on 16 February 2016. Prior to 18 February 2016, the committee was responsible for Transport, Infrastructure, Local Government, Planning, Trade, State Development, Natural Resources and Mines.

[2] See www.parliament.qld.gov.au/ipnrc.

- ensure provisions for water planning instruments appropriately transition existing instruments and processes into the new water planning framework and that the new framework can operate effectively.[3]

1.5 Water Reform and Other Legislation Amendment Act 2014

The WROLA Act was passed on 26 November 2014.[4] It included amendments to a number of Acts including the *Water Act 2000*, the *Coal Mining Safety and Health Act 1999*, the *Mineral Resources Act 1989* and the *River Improvement Trust Act 1940.*

Certain provisions in the WROLA Act commenced on 5 December 2014 (the date of assent).[5] The remaining provisions were to commence on a day to be fixed by proclamation.[6]

A proclamation made on 19 December 2014 commenced certain amendments to the *River Improvement Trust Act 1940*, the *Coal Mining Safety and Health Act 1999* and the Water Resource (Burnett Basin) Plan 2014 on that day, with certain other provisions to commence on 18 February 2015.[7]

A number of amendments in the WROLA Act were not supported by the Palaszczuk Government when in opposition, including a new purpose of the *Water Act 2000* that did not include the principles of ecologically sustainable development and the introduction of a water development option for large-scale water infrastructure projects.[8]

After the change of Government, a proclamation postponed the commencement of a number of water related reforms 'to allow time for the provisions to be reviewed for their consistency with government policy'.[9]

Reforms related to water authorities commenced on 18 February 2015.[10]

A proclamation made on 11 September 2015 commenced certain sections of the WROLA Act on that day.[11] These included amendments to the Water Act to: establish a watercourse identification map; omit duplicate provisions dealing with drainage and embankment areas; broaden the definition of

3 Water Legislation Amendment Bill 2015, explanatory notes, p 1.

4 Queensland Parliament, Record of Proceedings, 26 November 2014, p 4022.

5 The *Water Reform and Other Legislation Amendment Act 2014* received the royal assent on 5 December 2014. On that date, some provisions commenced, including 'amendment of various resource acts in relation to seizure of evidence; amendments to the *Mineral and Energy Resources (Common Provisions) Act 2014* in relation to the overlapping tenure framework for notification and objection rights and access to restricted land; and amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* relating to some transitional provisions for water efficiency management plans': Public briefing transcript, 30 November 2015, p 1.

6 *Water Reform and Other Legislation Amendment Act 2014*, s 2.

7 Proclamation made under the Water Reform and Other Legislation Amendment Act 2014 (SL No. 333), 19 December 2014.

8 Water Legislation Amendment Bill 2015, explanatory notes, p 1; Queensland Parliament, Record of Proceedings, 10 November 2015, p 2691.

9 Public briefing transcript, 30 November 2015, p 2.

10 Proclamation made under the Water Reform and Other Legislation Amendment Act 2015 (SL No. 2), 17 February 2015; Proclamation made under the Water Reform and Other Legislation Amendment Act 2015 (SL No. 2), 17 February 2015, explanatory notes.

11 Proclamation made under the Water Reform and Other Legislation Amendment Act 2014 (SL No. 122), 11 September 2015.

'publish' to provide greater flexibility for public notices; and change the Water Resource (Great Artesian Basin) Plan 2006.[12]

On 13 November 2015, the Water Reform and Other Legislation Amendment (Postponement) Regulation 2015 postponed the automatic commencement of the uncommenced provisions of the WROLA Act to the end of 5 December 2016.[13]

If the House passes the bill, the WROLA Act will be amended on the commencement of the Water Legislation Amendment Act 2016.[14] The amended WROLA Act will commence by proclamation on 6 December 2016 and amend the Water Act.[15]

1.6 The Government's consultation on the bill

DNRM and DEHP met with the Water Engagement Forum[16] on three occasions in 2015 to discuss proposed changes related to the WROLA Act.[17] The explanatory notes reported that the majority of stakeholders supported the amendments.[18]

Nearly all the submitters who were part of the Water Engagement Forum and commented on their participation commended the process. Queensland Conservation described the government's consultation on the bill as 'excellent'.[19] The Local Government Association of Queensland submitted:

> [T]he Association would like to acknowledge the efforts of the Department of Natural Resources and Mines … in engaging stakeholders in the process of drafting this bill through initiatives like the Water Engagement Forum and the preparation of materials to educate the public about these changes.[20]

Queensland Resources Council's view, however, was there hasn't been sufficient consultation on timing, application and transitional arrangements of the reforms.[21]

Not all stakeholders who wanted to be involved in the Water Engagement Forum were invited to be part of it. Cotton Australia, for example, was disappointed that its representative body was not included in the Water Engagement Forum.[22] The committee notes that DNRM will give further consideration to the membership of the Water Engagement Forum.[23]

1.7 Should the Bill be passed?

Standing Order 132(1)(a) requires that the committee, after examining the Bill, determine whether to recommend that the Bill be passed.

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12 Department of Natural Resources and Mines, correspondence dated 7 December 2015, attachment.

13 Section 15DA of the *Acts Interpretation Act 1954* provides that if a provision of an Act does not commence on the assent day because a provision of the Act postpones its commencement until a day fixed under an instrument, and it has not commenced within 1 year of the assent day, it automatically commences on the next day. However, within one year of the assent day, a regulation may extend the period before the commencement of the provisions to not more than 2 years of the assent day.

14 Department of Natural Resources and Mines, correspondence dated 7 December 2015, p 2.

15 Water Reform and Other Legislation Amendment (Postponement) Regulation 2015.

16 The Water Engagement Forum, which comprises representatives of key industry and community stakeholder groups with an interest in Government related water issues in Queensland, is the peak advisory group to the Department of Natural Resources and Mines on Government related water matters: Department of Natural Resources and Mines, correspondence dated 7 December 2015, attachment.

17 Water Legislation Amendment Bill 2015, explanatory notes, p 6.

18 Water Legislation Amendment Bill 2015, explanatory notes, p 6.

19 Public hearing transcript, 15 February 2016, p 20.

20 Local Government Association of Queensland, submission 102, p 2.

21 Queensland Resources Council, submission 65, p 3.

22 Cotton Australia, submission 73, p 1.

23 Public briefing transcript, 15 February 2016, p 43.

The committee was not able to reach a majority decision on whether the Bill be passed and, therefore, in accordance with section 91C (7) of the *Parliament of Queensland Act 2001*, the question on the motion failed. The committee is not able to make a recommendation that the Bill be passed.

Despite varying opinions on whether the Bill be passed or not passed, the committee considered a range of issues during the course of this inquiry. Committee members unanimously agreed that the House take note of the substantive content of this report.

2 Examination of the Bill

The bill proposes to amend the *Water Reform and Other Legislation Amendment Act 2014* (WROLA Act) to:

- include principles of ecologically sustainable development in the purpose of the *Water Act 2000* (Water Act)
- omit provisions relating to the water development option
- omit provisions for the chief executive to declare a designated watercourse.

The bill also proposes to make other amendments including:

- validating the formation of the Lower Herbert Water Management Authority under the *Water Regulation 2002* in 2005
- amending the *River Improvement Trust Act 1940* to clarify certain provisions
- providing more flexible publishing requirements for licence applications
- allowing the chief executive to determine whether a tenure is considered to be within a cumulative management area in instances where a tenure is only partially within the area.

A key objective of the bill is to align the WROLA Act with Government policy and election commitments.[24]

The bill does not propose to amend the provisions in the WROLA Act relating to the statutory right given to miners to take, or interfere with, associated water, but it was a key concern for many submitters and thus is discussed in this report.[25] Another key concern for some submitters that was outside the scope of the bill was the make good provisions. These are also discussed in this report.[26]

2.1 Principles of ecologically sustainable development

Clause 12 of the bill proposes to amend section 59 of the WROLA Act, which replaces section 2 of the Water Act. Proposed new section 2 is based on section 59 of the WROLA Act but removes the term 'responsible and productive management' and replaces it with 'sustainable management'. The principles of ecologically sustainable development (ESD) are incorporated into the meaning of sustainable management.[27]

The rationale for the amendment is that, unlike the current purpose of Chapter 2 of the Water Act, the purpose set out in the WROLA Act does not refer to the principles of ecologically sustainable development.[28]

With respect to the amendment, the department advised:

> The principles of ecologically sustainable development are currently in the Water Act. The WROLA Act reforms to remove those principles never commenced, so that change has not taken effect. What we are essentially doing is reinstating the principles of ecologically sustainable development as

[24] Water Legislation Amendment Bill 2015, explanatory notes, p 1. See also, Queensland Parliamentary Debates, 10 November 2015, p 2691.

[25] See section 2.8 of this report.

[26] See section 2.9 of this report.

[27] Water Legislation Amendment Bill 2015, explanatory notes, p 9.

[28] Queensland Parliament, Record of Proceedings, 10 November 2015, p 2691; Water Legislation Amendment Bill 2015, explanatory notes, p 2.

> they currently apply in the Water Act which is to chapter 2, which is the water allocation and planning framework. That delivers on the government's commitment to reinstate those principles.[29]

Further, the changes to be introduced by the bill will mean that the principles of ESD will have to be considered in each limb of Chapter 2 – 'every limb of the definition of sustainable management and every limb of the principles of ecologically sustainable development – will need to be taken into account in decisions made under that chapter'.[30] This is not expected to increase the length of time to assess water licence applications nor is it expected to 'stop or reduce the amount of access to water'. It is intended that it will 'ensure that there is continued appropriate consideration of science underpinning that framework'.[31]

The bill also replaces the term 'responsible and productive management' with 'sustainable management' throughout the WROLA Act 'for consistency with the revised new purpose'.[32]

Stakeholder views

A number of stakeholders expressed support for the reinstatement of the principles of ESD in the Water Act.[33] Dr Tim Seelig from the Wilderness Society told the committee that 'putting the principle of ESD back into the Water Act, although only partially so, is an incredibly important point for us'.[34] While the majority of groups and individuals supported ESD in principle, some raised a range of concerns.

Dr Dale Miller, Senior Policy Adviser from AgForce told the committee:

> We do not have significant concerns with what is in the bill in terms of the three areas that are focused on around the re-introduction of ecologically sustainable development principles and replacing the term 'responsible and productive' with the term 'sustainable' in relation to water management. Environmental sustainability is a key principle in ensuring that water supplies are reliably available for the use of current and future generations. In our view, you cannot separate those two elements. So responsible use is also sustainable use, and sustainable use supports entitlement reliability and it is all part of finding the balance that we are all seeking to achieve with regard to planning and management of water resources.[35]

Mr Barger from the Queensland Resources Council argued the need to balance environmental protection with the need to support economic development:

> ESD is not about capital 'E', lower case 's', lower case 'd'. It is balancing the three ends of the triangle. It is about society, it is about economy and it is about ecology. It is always difficult to balance that. Everyone will always have a different view about how well it should be balanced, but those principles set out a framework for judging objectively how close you are getting. I always get a bit cautious when people start talking about one part of it being more important than the other. I

[29] Public briefing transcript 15 February 2016, p 41.

[30] Public briefing transcript, 30 November 2015, p 8.

[31] Public briefing transcript, 30 November 2015, p 8.

[32] Water Legislation Amendment Bill 2015, explanatory notes, p 3.

[33] See, for example, Gold Coast and Hinterland Environment Council Association Inc, submission 72, p 1; Queensland Conservation, submission 77, p 1; Wide Bay Burnett Environment Council, submission 83, p 1; Labor Environment Action Network Queensland, submission 90, p 1; Greater Mary Association Inc, submission 93, p 1; Sunshine Coast Environment Council, submission 94, p 1, Mary River Catchment Coordination Association, submission 88, p 1, Local Government Association of Queensland, submission 102, p 1; Queensland Murray-Darling Committee, submission 67, p 1; Queensland Murray-Darling Committee, submission 67, p 1.

[34] Public briefing transcript 15 February 2016, p 15.

[35] Public briefing transcript 15 February 2016, p 8.

> think what is presented in the bill at the moment matches other important pieces of legislation such as the Environmental Protection Act and the EPBC Act at the Commonwealth level.[36]

GVK Hancock Coal was concerned that the insertion of ESD in the Water Act 'may provide avenues and mechanisms for unmerited challenges to the granting of water licences for coal mines'.[37] The company was of the view that the current term 'responsible and productive management' was sufficient as it provides 'strong and adequate tools for managing the requirements of the Water Act'.[38]

GVK Hancock Coal was concerned that the insertion of ESD in the Water Act 'may provide avenues and mechanisms for unmerited challenges to the granting of water licences for coal mines'.[39] The company was of the view that the current term 'responsible and productive management' was sufficient as it provides 'strong and adequate tools for managing the requirements of the Water Act'.[40]

> Our specific concern is with the term 'ecologically sustainable development'. We believe the term in the manner set out in the bill is insufficiently precise. The term is drafted into the purpose of the act. The application of that term to real world issues will be problematic. An objector can use it to claim a coalmine water licence does not meet the purpose of the act. In such a scenario, the term 'ecologically sustainable development' is ripe for dispute.[41]

Queensland Resources Council (QRC) contended that the application of ESD should not be extended to include all decisions made under the bill because it would bring 'a high risk of unintended consequences'.[42]

Some stakeholders held the view that it would be desirable for the ESD principles to be extended to Chapter 3 of the Act,[43] and others were of the view that the principles of ESD should apply to the entire Act.[44] DNRM gave the following reasons for not applying the principles of ESD to the resources sector under chapter 3 of the Water Act:

- the principles of ESD are applied to all resource sector projects through the environmental impact assessment process and/or the environmental authority processes under the *Environmental Protection Act 1994* (EP Act). Additionally, for coordinated projects, the environmental impacts of such projects are assessed and conditioned under the *State Development and Public Works Organisation Act 1971* prior to the granting of an environmental authority under the EP Act
- chapter 3 only deals with the process for managing the impacts on underground water for approved projects

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36 Public briefing transcript 15 February 2016, p 24.

37 GVK Hancock Coal Pty Ltd, submission 54, p 1.

38 GVK Hancock Coal Pty Ltd, submission 54, p 2.

39 GVK Hancock Coal Pty Ltd, submission 54, p 1.

40 GVK Hancock Coal Pty Ltd, submission 54, p 2.

41 Public briefing transcript 15 February 2016, p 25.

42 Queensland Resources Council, submission 65, pp 1-2.

43 Chapter 3 establishes an impact management framework to regulate the impacts from the resource sector's statutory right to take underground water (currently only for the petroleum and gas industry but will be expended to the mining industry under the WROLA Act for associated water): Department of Environment and Heritage Protection, correspondence dated 29 January 2016, attachment, p 2. See, for example, Wildlife Preservation Society of Queensland, submission 31, p 2; Environmental Defenders Office of Northern Queensland, submission 55, p 2, Western Rivers Alliance, submission 36, pp 1-2, Form submission.

44 See, for example, Queensland Conservation, submission 77, p 3; WWF-Australia, submission 82, p 1; Sunshine Coast Environment Council, submission 94, p 2; The Wilderness Society, submission 92, p 3; Environmental Defenders Office Qld, submission 96, appendix 1, pp 2-4.

- the purpose of chapter 3 has been in place since 2010 and changes are not proposed to be made to it by WROLA or the bill.[45]

In response to the suggestion that the principles of ESD be applied more broadly in the Act, DNRM advised that the different chapters of the Water Act have clear and distinct functions and to apply the principles of ESD to all the chapters of the Water Act would be 'incongruous with the respective chapter purposes'.[46]

DNRM advised:

> Neither the WROLA Act nor the Bill contemplates the application of ESD to chapter 3.
>
> It is important to note that the principles of ESD have been in the Water Act since the year 2000 and apply to water planning, allocation and use matters. The WROLA Act amendments to remove the principles of ESD never commenced, so restoring these principles merely ensures the current situation continues for the allocation, planning and use of water resources. A water licence will be required for non-associated water by the mining sector (as is currently the case), the application for which will continue to be assessed under chapter 2 of the Water Act where the principles of ESD will apply. 'Non-associated water' refers to water that is not taken in the process of extracting the resource, but is taken to use in a process such as dust suppression. The department believes consideration of ESD principles is a fundamental consideration in decisions about the allocation of the State's water resources to ensure we achieve the appropriate balance between environmental, economic and social considerations.[47]

Committee comment

The committee was unable to reach consensus on the proposed provisions relating to the inclusion of the principles of ESD in Chapter 2 of the Water Act.

The committee is satisfied with DNRM's reasons for not extending the application of the principles of ESD to the resources sector under Chapter 3 or to the entirety of the Water Act.

Riparian protection permit, land and water management plan and licence to divert watercourses

To ensure the principles of ESD are achieved through the Water Act, some submitters sought the reintroduction of certain provisions in the Water Act relating to riparian protection permits (RPPs), land and water management plans (LWMPs), and licencing requirements for mining proponents to divert a watercourse.

The Mary River Catchment Coordination Association recommended that the exemptions for RPPs be reviewed to ensure consistency with ESD and the purpose of sustainable management. It asserted that currently, the self-assessment approach 'is very readily misinterpreted and misapplied', resulting in 'works being undertaken that have unforeseen consequences for the health of the watercourse and also caused conflict between neighbours both up and downstream of where the works have been completed'.[48]

Several other submitters held similar views. The Greater Mary Association considered that the current self-assessment approach for RPPs is not working.[49] WWF-Australia (WWF) recommended that the bill include provisions that reinstate the requirement in the Water Act for landholders to obtain a RPP to destroy riparian vegetation.[50] The Environmental Defenders Office Qld (EDO) and

[45] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 3.
[46] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 3.
[47] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, pp 5-6.
[48] Mary River Catchment Coordination Association, submission 88, p 1.
[49] The Greater Mary Association, submission 93, p 2.
[50] WWF-Australia, submission 82, p 3.

Queensland Conservation (QCC) supported WWF's recommendation regarding RPPs but added that the Bill should also include provisions that reinstate the requirement in the Water Act for water entitlement holders to prepare and implement LWMPs.[51] In support for the reintroduction of RRPs and LWMPs, EDO stated:

> These suggestions are provided to undo the damaging legislative reform provided by the previous Queensland government even prior to WROLAA, which weakened water regulation in Queensland. The government has included, in the proposed purpose for the Water Act, a requirement to 'reverse degradation that has occurred' to ecosystems. LWMPs and RPPs are particularly useful tools for assisting in 'reversing degradation' that that has occurred to ecosystems, as required by the purpose.[52]

DNRM advised that, while matters relating to riparian protection permits and land and water management plans are not the subject of this bill, the Queensland Government has committed to reintroducing protections for these areas.

> The Department of Natural Resources and Mines … notes the views provided by the submitters. The matter/s raised relates to repealed *Water Act 2000* provisions that are not the subject of the Water Legislation Amendment Bill 2015.
>
> The Government has indicated its intent to reintroduce riverine protection to guard against excessive clearing of riparian vegetation. This issue is being considered as part of the government's commitment to re-instating the vegetation protection laws repealed by the previous Government.[53]

Submitters also recommended that the bill be amended to include a requirement for proponents of mining development projects to obtain a licence under the Water Act to divert watercourses.[54] EDO Qld stated that the purpose of this was to identify and address any adverse impacts that could be caused as a result of a watercourse diversion to downstream water users and environmental values.[55]

> The Department of Natural Resources and Mines (DNRM) notes the views provided by the submitters. The matter/s raised relates to repealed *Water Act 2000* (Water Act) provisions that are not the subject of the Water Legislation Amendment Bill 2015.
>
> A key amendment made under the *Land, Water and Other Legislation Amendment Act 2013* now allows the regulation of watercourse diversions for resource activities through environmental authorities under the *Environmental Protection Act 1994*. Prior to this amendment, proponents of resource activities were required to obtain a water licence under the Water Act.
>
> Proponents undertaking resource activities, where a watercourse diversion is necessary to undertake the activity, are required to provide specific information regarding the watercourse diversion as part of their environmental authority application.
>
> Through collaboration between DNRM and the Department of Environment and Heritage Protection a guideline has been developed - Guideline: Works that interfere with water in a watercourse – watercourse diversions - September 2014. The Guideline provides advice to proponents seeking approval to divert a watercourse associated with a resource activity under a new or amending environmental authority pursuant to the *Environmental Protection Act 1994*.
>
> The Guideline specifies key outcomes for watercourse diversions, how these outcomes can be achieved (e.g. incorporation of natural features, maintenance of existing hydrological characteristics, comparison with other local watercourses, maintenance of sediment transport and water quality

[51] Queensland Conservation, submission 77, p 2.

[52] Environmental Defenders Office Qld, submission 96, appendix 1, p 4.

[53] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 47.

[54] Queensland Conservation, submission 77; WWF-Australia, submission 82; Wide Bay Burnett Environment Council, submission 83; Sunshine Coast Environment Council, submission 94; EDO, submission 96.

[55] Environmental Defenders Office Qld, submission 96, appendix 1, p 4.

regimes and maintenance of equilibrium and functionality) and details on the proposed certification model. Suitably qualified and experienced persons need to certify that designed and constructed watercourse diversions will achieve the key outcomes as specified within the Guideline.[56]

Committee comment

The committee notes that the Government is considering ways to protect riparian areas through the reinstatement of vegetation protection laws.

In relation to watercourse diversion and the licencing of proponents under the Water Act, the committee notes that proponents now require an environmental authority to divert a watercourse for resource activities under the EP Act rather than having to obtain a water licence under the Water Act, and that the environmental authority requires the provision of specific information. The committee also notes that the *Guideline: Works that interfere with water in a watercourse-watercourse diversions* specifies the requirements for proponents regarding approval to divert a watercourse.

2.2 Water development option

After the deferral of the commencement of the WROLA Act provisions on 17 February 2015, the department sought feedback from the Water Engagement Forum on the water development option provisions. These provisions would allow 'the granting of an option to proponents of large scale water infrastructure developments that gave a commitment of future access to water'.[57]

Stakeholders advised the department that they had concerns:

- that water development options could be granted without the water resource plan for the area having sufficient unallocated water reserve to support the project
- around the independence of the science to support the grant of water under a water development option
- that there was no requirement for community consultation prior to the granting of a water development option
- about opportunities for alternative projects to be considered
- about large projects being favoured over small projects.[58]

The bill proposes to omit provisions relating to the water development option on the basis that they 'are not consistent with the government's position due to concerns about the potential risks to the Great Barrier Reef, the potential over-allocation of water resources, and the absence of public consultation prior to granting of a water development option'.[59]

The department explored an alternative approach but it was ultimately not progressed.[60] The department advised that there is existing legislation and plans that can be used for large scale water infrastructure development.[61]

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[56] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, pp 48-49.

[57] Public briefing transcript, 30 November 2015, p 3.

[58] Public briefing transcript, 30 November 2015, p 3; Department of Natural Resources and Mines, correspondence dated 29 January 206, attachment, p 15.

[59] Water Legislation Amendment Bill 2015, explanatory notes, p 3.

[60] Public briefing transcript, 30 November 2015, p 3.

[61] Department of Natural Resources and Mines, correspondence dated 29 January 206, attachment, pp 15-16. See also, Public briefing transcript, 30 November 2015, p 10.

Stakeholder views

Some stakeholders supported the omission of the water development option[62]. Environmental groups highlight some issues with the WDO currently in operation:

> … the IFED project in the gulf, the Integrated Food and Energy Development project, essentially has … essentially gives an in-principle agreement that a large volume of water or its water allocation will be held back. In the case of the Gilbert River, no water has been released through the new water resource plan for the gulf because of that project. I think that is quite unfair on other irrigators, other water users and on the environment, as well, when you give that exclusive right to one particular player through a process that is not particularly transparent.[63]

Agforce highlighted their concerns with the WDO proposal as follows:

- That there be no disadvantage to existing water users or significant environmental impacts, primarily by requiring avoidance of impacts in the first place rather than a reliance on subsequent mitigation.
- Opportunities to access water be in the context of the available existing strategic reserves of water yet to be allocated and that can be sustainably taken.
- The process of accessing such reserves to be done transparently and require direct consultation of potentially-affected water users or the community so their views are clearly taken into account
- Unless modified, an EIS process is not considered equivalent consultation to that undertaken under a water planning process.
- There must be equity for small scale, local developers and a guarding against 'water banking' that stops other genuine users from accessing it in a timely way for actual development projects. [64]

Further, Agforce argued that:

> In relation to the Government's decision to remove WDOs we would propose that the underlying reason for their creation, namely the need for greater certainty of access to available water for potential developers, is considered further. [65]

Others were of the view that WDO should remain in the WROLA Act. Queensland Farmers Federation (QFF) told the committee:

> … we are saying the water development option has been taken off the table totally and that is not a good move.[66]

QFF argued that 'Major water infrastructure projects will require some certainty regarding availability of water before they commit to detailed development investigations. Consideration should be given to providing a revised water development option in the Bill'.[67]

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[62] See, for example, Gold Coast and Hinterland Environment Council Association Inc, submission 72, p 1; Queensland Conservation, submission 77, p 1; Wide Bay Burnett Environment Council, submission 83, p 1; Sunshine Coast Environment Council, submission 94, p 1; Environmental Defenders Office, submission 96, p 1; Queensland Resources Council, submission 65, p 2.

[63] Public briefing transcript, 15 February 2016, p 19.

[64] Public briefing transcript, 15 February 2016, p 10.

[65] Public briefing transcript, 15 February 2016, p 10.

[66] Public hearing transcript, 15 February 2016, p 2.

[67] Queensland Farmers Federation, submission 70.

Others opined that there needs to be further consideration given to how potential developers can gain greater certainty regarding access to water.[68]

> We certainly encourage the committee to recommend to government that it look to develop more certain and predictable processes for the release of unallocated water. [69]

AgForce sought a process that delivers 'environmental sustainability and transparency for the local users as well as appropriate consultation processes'.[70]

Ms Barbeler from the Department of Natural Resources and Mines noted that 'there is broad support for omitting the water development option provisions in their entirety, although some submissions suggested … that there is a need for greater certainty of access to water for large-scale development'.[71]

Committee comment

Government members of the committee support the omission of the water development option as set out in the bill. Non-government members of the committee do not support the omission of the water development option.

The committee acknowledges that there is a need for a process to provide certainty of water access at an early stage of a project. The committee acknowledges that the Department of Natural Resources and Mines is currently working to develop a mechanism to provide this certainty.

Recommendation 1

The committee recommends the Department of Natural Resources and Mines continues to investigate alternatives for securing water for large scale projects while taking into account the impact on communities.

2.3 Designated watercourses

Under the WROLA Act, the chief executive may declare part of a watercourse a designated watercourse, which would allow water to be taken or interfered with in that reach without the need for a water entitlement or permit.[72]

The bill proposes to omit provisions in the WROLA Act that would allow the chief executive to declare a designated watercourse.

It was determined that the provisions should be removed on the basis of stakeholder concerns about 'the transparency and appropriateness of water resource regulation and whether there would be sufficient safeguards in place to ensure that this would not lead to overallocation of water resources'.[73]

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[68] See, for example, Queensland Resources Council, submission 65, p 2; AgForce, submission 71, p 2; Local Government Association of Queensland, submission 102, p 1; Queensland Farmers' Federation, submission 70, p 3.

[69] Public briefing transcript, 15 February 2016, p 8.

[70] Public briefing transcript, 15 February 2016, p 10.

[71] Public briefing transcript, 15 February 2016, p 39.

[72] Public briefing transcript, 15 February 2016, pp 39-40.

[73] Public briefing transcript, 30 November 2015, p 3. See also, Water Legislation Amendment Bill 2015, explanatory notes, p 3. The conservation, agricultural and farming sectors were key groups in the Water Engagement Forum who were concerned about the water designation provisions in the WROLA Act. Some

Stakeholder views

Stakeholders expressed support for the provisions in the bill omitting the power of the chief executive to declare a designated watercourse.[74]

Committee comment

The committee is satisfied with the provisions relating to the omission of the declaration of a designated watercourse.

2.4 Lower Herbert Water Management Authority

When it was formed in 2005, the Lower Herbert Water Management Authority (Authority) was intended to be an amalgamation of four category 2 water authorities – the Foresthome Drainage Board, the Loder Creek Drainage Board, the Mandam Drainage Board and the Ripple Creek Drainage Board – but an administrative error was made in the *Water and Other Legislation Amendment Regulation (No. 1) 2005*. The amalgamation ought to have been made under section 690 of the Water Act but was effected under section 548 instead. Clause 8 of the bill amends the Water Act to validate the formation of the water authority and the dissolution of the former water authorities from the date when the amendment regulation commenced. The bill also validates the actions of the Authority since that date.[75]

The application of fundamental legislative principles to clause 8 is discussed in Part 3.1 of this report.

Committee comment

The committee is satisfied with the provisions validating the Lower Herbert Management Authority.

2.5 River Improvement Trust Act 1940

The Bill proposes to amend the *River Improvement Trust Act 1940* to clarify the intent of amendments made to the Act on 19 December 2014 by the WROLA Act. The amendments:

- clarify provisions relating to the establishment and possible membership of river improvement trusts
- clarify the powers and obligations of trusts in relation to the undertaking and maintenance of works
- confirm the continuation from 19 December 2014 of all river improvement areas and trusts in existence immediately before that date
- confirm the validity of appointments to existing trusts made by the Minister consistently with the relevant provisions of the *River Improvement Trust Act* prior to 19 December 2014.[76]

of the agricultural sector were worried about the potential impact on downstream users: Public briefing transcript, 30 November 2015, pp 6, 8-9.

74 See, for example, Queensland Murray-Darling Committee, submission 67, p 2; Queensland Conservation, submission 77, p 1; Mary River Catchment Coordination Association, submission 88, p 1; Mary Association, submission 93, p 2; Sunshine Coast Environment Council, submission 94, p 1; Environmental Defenders Office, submission 96, p 1; Queensland Resources Council, submission 65, p 2.

75 Public briefing transcript, 30 November 2015, p 3. See also, Water Legislation Amendment Bill 2015, explanatory notes, p 4.

76 Water Legislation Amendment Bill 2015, explanatory notes, p 4.

Stakeholder views

The Local Government Association of Queensland (LGAQ) asserted that the amendments increase the powers granted to the chief executive to direct the Trusts and that this may result in unreasonable and unfulfillable obligations on local governments.[77]

DNRM contended that the provisions do not give any new powers to the chief executive; they merely clarify existing powers.[78]

The application of fundamental legislative principles to clauses 4 and 5 is discussed in Part 3.1 of this report.

Committee comment

The committee is satisfied with the department's advice regarding the function of the provisions.

2.6 Publishing requirements for licence applications

The bill includes an option for detailed information about water licence applications to be published on the department's website. This will enable the chief executive 'to reduce costs for water licence applicants and provide greater accessibility of online information about water licence applications'.[79]

Stakeholder views

AgForce supported the provisions enabling the chief executive to require water licence applicants to publish a short notice in the newspaper because it will reduce costs for applicants. The organisation considered that it 'would assist in balancing transparency with cost efficiency'.[80]

Committee comment

The committee is pleased the bill introduces a less costly option for water licence applicants to notify interested parties about the application and making submissions that does not disadvantage potential submitters.

2.7 Cumulative management areas

A cumulative management area (CMA) can be declared under the Water Act if an area contains two or more petroleum tenures (including tenures on which coal seam gas activities operate) and there may be cumulative impacts on groundwater resulting from water extraction by the tenure holders.

The declaration of a CMA by the chief executive of the Department of Environment and Heritage Protection (DEHP) 'enables assessment of future impacts using a regional modelling approach and the development of management responses – such as monitoring programs – that are relevant to the potential cumulative impacts. It also enables responsibilities to be assigned, through the department approved underground water impact report, to each tenure holder in the area for monitoring, bore and baseline assessments, and negotiating make good arrangements'.[81] As a result, landholders do not have to negotiate with multiple parties.[82]

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77 Local Government Association of Queensland, submission 102, pp 1-2.

78 Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 19.

79 Public briefing transcript, 30 November 2015, pp 3-4. See also, Department of Natural Resources and Mines, 'Changes to water legislation', accessed 2 February 2016.

80 AgForce, submission 71, p 3.

81 Department of Environment and Heritage Protection, 'Cumulative management area', last updated 1 April 2013.

82 Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 44.

The Office of Groundwater Impact Assessment (OGIA) oversees and coordinates the management of groundwater in CMAs. OGIA consults with stakeholders on the development of an underground water impact report (UWIR) for each CMA.[83]

The WROLA Act includes an amendment, which states that if a tenure is partially within and partially outside a cumulative management area, the declared cumulative management area is taken to include the whole of the tenure.[84]

Clause 16 of the bill proposes to amend the WROLA Act to enable the chief executive to decide whether the tenure, or part of the tenure is a CMA tenure. The chief executive must have regard to 'the impact on underground water caused by or likely to be caused by the exercise of underground water rights by the resource tenure holder and advice from any relevant entities, including the tenure holder and the Office of Groundwater Impact Assessment'.[85]

The application of fundamental legislative principles to clause 16 is discussed in Part 3.1 of this report.

Stakeholder views

Some submitters were not supportive of clause 16. The Wilderness Society, for example, stated that the automatic inclusion in the CMA of the full resource tenure 'provides greater certainty and appropriate ecologically sustainable management of water in and close to the CMA'.[86] The EDO was of the view that the proposed amendment would 'create more administration and uncertainty for all stakeholders, with minor benefit'.[87] If the amendment was to be accepted, the EDO considered that there should be 'clear criteria … to guide how the decision makers should determine whether a part of a tenure is not necessary to be included in the CMA'.[88]

AgForce supported 'the use of the scientific expertise of the OGIA' in making determinations regarding cumulative management areas. The organisation sought to have 'affected and potentially-affected bore-holders' consulted to 'ensure all impacts are considered'.[89]

DEHP considered the amendment is necessary as it is not always appropriate for tenures to be automatically included within a CMA as impacts may not be overlapping. DEHP stated that regardless of whether the parts of the tenure are characterised as a CMA tenure or not, the underground water obligations will continue to apply to all parts of the tenure, and any affected bore owners will still have the statutory make good protection.[90]

Committee comment

The committee supports the proposed provisions relating to cumulative management areas.

2.8 Underground water management

Parts 4, 5 and 8 of the WROLA Act amend the *Mineral Resources Act 1989* (MRA), the *Petroleum and Gas (Production and Safety) Act 2004* and the Water Act respectively to provide a framework for

[83] Department of Environment and Heritage Protection, 'Cumulative management area', last updated 1 April 2013.

[84] Water Legislation Amendment Bill 2015, explanatory notes, p 15.

[85] Public briefing transcript, 30 November 2015, p 4. See also, Water Legislation Amendment Bill 2015, explanatory notes, pp 15-16.

[86] The Wilderness Society, submission 92, p 6.

[87] Environmental Defenders Office, submission 96, attachment, p 4.

[88] Environmental Defenders Office, submission 96, attachment, p 4.

[89] AgForce, submission 71, p 3.

[90] Department of Environment and Heritage Protection, correspondence dated 29 January 2016, attachment, p 4.

managing underground water impacts associated with the mining and petroleum sectors.[91] A review of the provisions undertaken by the current Government after taking office found that the framework 'provides strengthened arrangements for managing the groundwater impacts of the mining sector compared to the arrangements in place today'[92] and that the framework is not expected to change 'an already negligible impact on the Great Barrier Reef'.[93]

Parts 4, 5 and 8 of the WROLA Act are consistent with Government policy and, as a result, the bill does not make any substantive amendment to them.[94] Nevertheless, many submitters commented on the provisions, particularly Part 4.

Part 4 of the WROLA Act

Amongst other things, Part 4 of the WROLA Act amends the MRA to provide mining companies with a statutory right to take associated water.[95] 'Associated water' is water taken incidentally during extraction of the resource, such as during dewatering. The right is restricted to miners who have mining tenure and an environmental authority, and it is subject to compliance with the underground water obligations in Chapter 3 of the Water Act.[96]

Miners are still required to obtain a licence or permit to take underground water to use in their activities, such as for dust suppression in areas where groundwater is regulated.[97]

Stakeholder views

The Form submitters and a number of other submitters contended that the bill should revoke Part 4 of the WROLA Act[98] or revoke the provisions in Part 4 giving miners a statutory right to underground water.[99]

The submitters were generally of the view that the provisions should be revoked because of the harm that will be caused to agricultural water users and the environment.

Some landholder groups (QFF and AgForce) supported Part 4 of the framework because of increased protection for landholders.[100]

The committee was also cautioned about the use of language around associated 'water rights' and 'water take'.

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91 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 2.

92 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 2.

93 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 2.

94 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 2. See also, Queensland Parliament, Record of Proceedings, 10 November 2015, p 2692.

95 Water Reform and Other Legislation Amendment Act 2014, s 11 which inserts new s 334ZP in the *Mineral Resources Act 1989*.

96 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 3.

97 Department of Natural Resources and Mines, paper tabled 15 February 2016, p 3.

98 See, for example, Form Submissions; Queensland Murray-Darling Committee, submission 67, p 2; Western Rivers Alliance, submission 36, p 1; The Wilderness So`ciety, submission 92, p 7; Jay Devine, submission 95, pp 1-2; Wildlife Preservation Society of Queensland, submission 31, p 2; Environmental Defenders Office of Northern Queensland, submission 55, pp 1-2; Janelle Vaughan, submission 32, p 1.

99 See, for example, Queensland Conservation, submission 77, p 4; WWF-Australia, submission 82, p 1; Mary River Catchment Coordination Association, submission 88, p 1; Labor Environment Action Network Queensland, submission 90; The Greater Mary Association, submission 93, p 1; Environmental Defenders Office Qld, submission 96, appendix 1, p 2. See also, Protect the Bush Alliance, submission 78, p 1; Gold Coast and Hinterland Environment Council Association Inc, submission 72, p 1. It was also suggested that the statutory right to water of the petroleum and gas industry should be revoked: see, for example, The Greater Mary Association, submission 93, p 1.

100 Queensland Farmers Federation, submission 70; AgForce, submission 71.

> Legislators have a duty of care to language. There is no such thing as 'water rights'. The use of the word in the rhetoric of the mining industry attempts, in my opinion, to make a fact out of a falsity. Say it often enough and it sticks… This is a colloquial, not a legal, meaning. The legal meaning of a right is something incapable of alienation, like your right to vote.[101]

Further concerns raised by submitters in relation to miners' statutory right to associated water included:

- extinguishing third party appeal rights that are attached to the current requirement for mine operators to obtain a water licence under the Water Act to take and interfere with ground water
- removing the role of the Land Court in third party appeals against water licences granted to mine operators
- reducing the ability of the Government to sustainably manage Queensland's underground water resources
- the unknown effectiveness of the measures contained in Chapter 3 of the Water Act to manage adverse impacts caused to underground water resources by petroleum and gas production activities
- breaching the Government's election committee to repeal the Newman Government's water laws.[102]

With respect to the establishment of the statutory right to associated water, the department advised:

> The provision of a limited statutory right to take associated water is considered appropriate because associated water is water taken as a necessary and unavoidable part of the operation. For example, in coal seam gas operations, the water must be released in order for the gas to be extracted. In mining operations, water that seeps or flows into the pit must be removed to provide safe operating conditions. The take of associated water and its impacts are therefore assessed as part of the environmental impact assessments conducted under either the *Environmental Protection Act 1994* (EP Act) or the *State Development and Public Works Organisation Act 1971*. If the project is approved, conditions may be attached to the Coordinator General's approval, the mining lease and/or the environmental authority to limit the scale of the impacts to an acceptable level. The purpose of chapter 3 is then to provide a process for managing the residual impacts on water supply bores and springs.
>
> Note also that an environmental authority may be amended if a UWIR identifies an impact on an environmental value.[103]

In response to submitter concerns about the nature of the statutory right, DNRM advised:

> This right does not allow taking unlimited amounts of groundwater, but rather it is limited as follows:
>
> - It applies only to the holder of a mineral development licence or a mining lease. This mining tenure is granted only after environmental impact assessment (EIS) and issue of an environmental authority under the *Environmental Protection Act 1994* (EP Act).
> - It is limited to taking associated water which is water taken during the course of, or resulting from, the carrying out of an authorised activity. Examples are dewatering a mine

[101] Public hearing transcript, 15 February 2016, p 31.

[102] See, for example, Queensland Conservation, submission 77, pp 3-4; WWF-Australia, submission 82, p 4; Wide Bay Burnett Environment Council, submission 83, p 4; Sunshine Coast Environment Council, submission 94, pp 3-4. See also Queensland Labor Environment Action Network Queensland, submission 90, pp 1-2; Jay Devine, submission 95, pp 1-2.

[103] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 43.

to achieve safe operating conditions, or water evaporating from an open mine pit. This does not include taking water in order to use it in the mining operation (such as taking water to use for coal washing or accommodation camps).

- It is subject to the tenure holder complying with the underground water obligations.

The [terms of reference] for an EIS requires the proponent of a mining project to assess and report on potential impacts on groundwater and to propose mitigation strategies for any identified impacts. Proponents are also required to follow the guidelines issued by the Independent Expert Scientific Committee (IESC) for such impact assessments. Coal seam gas and large coal mining developments that are likely to have a significant impact on water resources must also be referred to the Australian Government regulator for approval under the *Environment Protection and Biodiversity Conservation Act 1999*. The IESC provides scientific advice to the Australian Government regulator on the assessment of these projects.

A tenure holder who took water in excess of the amount needed for dewatering, or who did not comply with the underground water obligations, would be taking water without authorisation and would be committing an offence under the *Water Act 2000*.

The underground water management framework to be established by WROLA will have no practical impact on the volume of underground water taken incidentally as a result of extracting a mineral resource. This is because under the current framework, the same volume would be taken under a licence. Licences to take water for dewatering are generally issued without a volumetric limit and are limited only by the purpose of the take.[104]

…

Mines that are not in a underground water regulated area do not need a licence and their take of water for dewatering is presently unregulated. In unregulated areas, the exemption from the requirement for a water licence extends to other water users. Mines that take water to use in their operations in regulated areas will continue to require a licence just as is the case of irrigators and other water users.

The underground water management framework will provide a process for managing the impacts of taking associated water on water supply bores and springs. This will apply to all mining leases and mineral development licences.[105]

Regarding submitter concerns about loss of appeal rights, DNRM advised:

The independent authority of the Land Court to hear and decide upon appeals against decisions on water licences is not altered by the Water Legislation Amendment Bill 2015 (Bill) or by the *Water Reform and Other Legislation Amendment Act 2014* (WROLA Act). While the WROLA Act removes the need to obtain a water licence to take associated water, opportunities for public scrutiny and appeal will continue to exist.

The impacts of dewatering operations by miners are already assessed and authorised as an integral part of an environmental authority and mining lease approval process, and this process is not altered by the Bill or by the WROLA Act.[106]

With respect to dewatering by a mineral development licence (MDL) holder, DNRM stated:

The activity on an MDL occurs over a short period. Accordingly, under the current framework, the Department of Natural Resources and Mines would generally advise a MDL tenure holder who needs to conduct dewatering to apply for a permit, rather than a licence, because permits are intended for short term uses of water that do not need an ongoing entitlement. A permit application is not advertised and there are no provisions for public objections or appeal rights. Replacing the need for

[104] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, pp 19-20.

[105] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 26.

[106] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 28.

> a permit with the limited statutory right does not, therefore, remove any objection or appeal rights from third parties. The limited statutory right is subject to complying with the underground water obligations, including monitoring and preparing an underground water impact report (UWIR) which identifies any potential impacts on bores and springs, and entering into make good agreements with the owners of potentially affected bores. The UWIR is subject to public consultation before submitting it to the Department of Environment and Heritage Protection for approval.[107]

QRC was not in favour of providing mining companies with a statutory right to take associated water. The organisation stated that the framework was developed to address the impacts on underground water in the Darling Downs of coal seam gas production and it will not necessary apply well to all resource operations in Queensland.[108]

> For the mining industry, the prospect of a new statutory right to take associated water, grafted hastily onto existing operations, creates substantial risk to the industry's social licence to operate without delivering benefits to these existing operations.[109]

Committee comment

The committee acknowledges submitters' concerns regarding Part 4 of the WROLA Act but notes that such matters are outside the scope of the bill. The committee is hopeful that the departments' responses to submitter concerns have provided some reassurance to stakeholders regarding this issue.

2.9 Make good provisions

Chapter 3 of the Water Act currently provides for management of impacts on underground water caused by the exercise of underground water rights by petroleum tenure holders.[110] The WROLA Act amends the Water Act to also apply Chapter 3 to the mining industry.[111]

Amongst other things, Chapter 3 requires tenure holders to enter into make good agreements with the owners of the bores that are affected by the exercise of underground water rights by tenure holders.

The make good framework includes the following measures:

- a tenure holder must, at any time, use their best endeavours to enter into a make good agreement if they consider a bore is impaired by their operation, or if the chief executive considers the bore may be impaired and directs them to conduct a bore assessment on a bore
- a tenure holder must also enter into a make good agreement for a bore which has been identified, in the approved underground water impact report (UWIR), as being likely to become impaired within the next three years (note that the UWIR is revised every three years)
- the tenure holder must meet the landholder's accounting, legal or valuation costs incurred in reaching the agreement
- a dispute resolution process is available if the parties are unable to reach an agreement, with recourse to the Land Court by either party

[107] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 21.
[108] Queensland Resources Council, submission 65, pp 3-5. See also, Landholder Services Pty Ltd, submission 3, p 9.
[109] Queensland Resources Council, submission 65, p 3.
[110] *Water Act 2000*, s 361.
[111] Department of Natural Resources and Mines, paper tabled 15 February 2016, p 3.

- the tenure holder must comply with a make good agreement
- either party may seek a variation to the agreement if there is a change in circumstances, the measures are ineffective or if a more efficient measure becomes available.[112]

Stakeholder views

Some submitters were critical of the make good provisions.[113] They identified purported deficiencies in the make good arrangements including:

- the onus of proof in the assessment of impairment and the reason for the impairment being on the landholder, not the tenure holder
- the current requirements for baseline tests of landholder's bores are insufficient for proof of impairment in a dispute with the resources sector
- there is no obligation on resources companies to act in good faith
- landholders cannot recover costs for commissioning experts, such as hydrologists.[114]

Submitters suggested ways to address the flaws, such as the establishment of a 'Make Good Commissioner'; giving landowners the right to expert hydrological and other advice at the cost of the tenure holder; and baseline testing that meets certain requirements. Agforce canvassed a range of possible improvements to the 'make good' provisions.[115]

DNRM advised that the issues raised in submissions about the make good provisions 'relate to the implementation of the framework rather than the provisions for the framework'[116] but that DEHP and DNRM 'are keen to better understand stakeholder issues regarding the implementation of the framework'.[117] DEHP advised that it will be undertaking an operational review of Chapter 3 of the Water Act in 2016. During the review, stakeholders 'will be provided an opportunity to provide feedback on the performance of the framework and make submissions on how the framework can be administratively improved'.[118]

Committee comment

The committee acknowledges the concerns of stakeholders regarding the make good provisions but notes that such matters are outside the scope of the bill. The committee notes that DEHP will undertake a review of Chapter 3 of the Water Act this year and encourages the department to engage with stakeholders who have submitted to the committee regarding this matter. The committee requests that the department brief the committee on the findings and outcomes of its review.

2.10 Commencement date

As discussed above, the Water Reform and Other Legislation Amendment (Postponement) Regulation 2015 postponed the automatic commencement of the uncommenced provisions of the

[112] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 23.
[113] See, for example, Landholder Services Pty Ltd, submission 3; Sarah Moles and Tom Crothers, submission 4; Gold Coast and Hinterland Environment Council Association Inc, submission 72, p 1. See also, AgForce, paper tabled 15 February 2015.
[114] Sarah Moles and Tom Crothers, submission 4, p 7.
[115] See AgForce, paper tabled 15 February 2015.
[116] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 23.
[117] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 23.
[118] Department of Environment and Heritage Protection, correspondence dated 29 January 2016, attachment, p 6.

WROLA Act to the end of 5 December 2016.[119] If the House passes the bill, the WROLA Act will be amended on the commencement of the Water Legislation Amendment Act 2016.[120] The amended WROLA Act will commence by proclamation on 6 December 2016 and amend the Water Act,[121] although the underground water provisions may commence earlier.[122]

Stakeholder views

QRC was concerned that 6 December 2016 is too soon to address the complex transitional issues in WROLA.[123] GVK Hancock Coal said that, for new projects, '[t]he sooner, the better'.[124]

DNRM advised that it

> … will continue to consult with stakeholders through the water engagement forum and other means as appropriate to resolve any issues that arise in implementation. DEHP, in consultation with DNRM, is developing a communication and implementation plan for the reforms to the underground water framework. Through this plan, clear guidance will be developed regarding the circumstances when an existing mine will be 'called in' to the underground water management framework under chapter 3. In addition, information sessions on how the framework will be applied to the mining sector will be offered, and industry will be consulted on revisions to the statutory guidelines under the framework, with opportunity for all stakeholders to provide input into amending and improving these guidelines.[125]

Committee comment

The committee recognises that some stakeholders may have some difficulty transitioning to the new framework but is pleased that the departments have processes in place to assist in the transition.

2.11 Great Barrier Reef World Heritage Area

QCC, WWF and the Sunshine Coast Environment Council recommended that the bill be amended to include provisions that introduce measures into the Water Act to 'deliver and implement the Government's commitments contained in the Reef 2050 Long Term Sustainability Plan'.[126] The Reef 2050 Long Term Sustainability Plan (LTSP) was developed by the Australian and Queensland governments with input from scientists, communities, Traditional Owners, industry and non-government organisations and is the overarching framework for the long-term protection and management of the GBR.[127] QCC summarised its concerns in relation to the bill as follows:

> We are particularly concerned that the Water Legislation Amendment Bill does not introduce what we consider are necessary measures into the Water Act to help achieve those commitments outlined by the Queensland government in the Reef 2050 Long-Term Sustainability Plan … the majority of impacts to water quality in the GBR are caused through the application of fertilisers and agricultural

[119] Section 15DA of the *Acts Interpretation Act 1954* provides that if a provision of an Act does not commence on the assent day because a provision of the Act postpones its commencement until a day fixed under an instrument, and it has not commenced within 1 year of the assent day, it automatically commences on the next day. However, within one year of the assent day, a regulation may extend the period before the commencement of the provisions to not more than 2 years of the assent day.

[120] Department of Natural Resources and Mines, correspondence dated 7 December 2015, p 2.

[121] Water Reform and Other Legislation Amendment (Postponement) Regulation 2015.

[122] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, p 37.

[123] Queensland Resources Council, submission 65, p 3.

[124] Public briefing transcript, 15 February 2016, p 29.

[125] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, pp 37-38.

[126] Queensland Conservation, submission 77, p 5; WWF-Australia, submission 82, p 5; Sunshine Coast Environment Council, submission 94, pp 4-5.

[127] Australian Government, About the Reef 2050 Plan.

> chemicals in conjunction with water resources that are managed under the Water Act. So we see it as a very necessary point that the Water Act and other relevant pieces of legislation must contain mechanisms, instruments, provisions … that support achieving those Reef 2050 Long-Term Sustainability Plan commitments.[128]

QCC provided the following example of how the bill could be amended to achieve the commitments under the LTSP:

> … we would very much encourage the committee to fully consider that the Water Act needs to be amended and contain what we consider to be appropriate mechanisms.
>
> For example, the Water Act used to have a number of mechanisms in it that would have assisted achieve these outcomes, the main one being land and water management plans. For whatever reason, the previous government removed the requirement for water users to develop and implement a land and water management plan when there was the risk of water quality and land degradation occurring as a result of using water for irrigation practices. Along with removing land and water management plan requirements from the act, the previous government also removed a number of other provisions that would have also helped achieve long-term sustainability planning commitments, the other primary one being riverine protection permits. Currently under the Water Act now, a landholder is not required to obtain a permit under the Water Act to destroy in-stream vegetation. That means that there is no provision in the Water Act to basically support maintenance of waterway ecological health.[129]

DNRM clarified that the bill provided the mechanisms to fulfil the Queensland Government's obligations under the LTSP in relation to the Water Act:

> The catchment based water planning framework under the *Water and Other Legislation Amendment Act 2014* (WROLA Act) will continue to be supported by sound science, extensive community consultation, hydrologic modelling, ongoing monitoring and compliance, to ensure the sustainable management of water resources. Each water plan must detail the desired economic, social and environmental outcomes which are to be achieved through management and allocation of water state the arrangements under the plan for providing water for the environment, including measures, strategies or statistical targets for ensuring that environmental flows are provided.
>
> The measures stated in a plan will provide quantifiable and objective links between high-level outcomes and specific management actions. These newly included measure requirements, introduced in the WROLA Act, can inform decisions about how water management and allocation can contribute to achieving the stated economic, social and environmental outcomes. Strategies include rules and processes that will achieve the outcomes of the plan. This approach ensures the Queensland Government is meeting its requirements under the Reef 2050 Long-Term Sustainability Plan to sustainably regulate the water extraction in catchments leading to the Great Barrier Reef.[130]

Committee comment

The committee is satisfied that the Bill includes provisions to ensure that the Queensland Government's commitments under the Reef 2050 Long Term Sustainability Plan can be fulfilled under the Water Act to ensure the protection of the Great Barrier Reef World Heritage Area.

[128] Public hearing transcript, Brisbane, p 17.

[129] Public hearing transcript, Brisbane, p 17.

[130] Department of Natural Resources and Mines, correspondence dated 29 January 2016, attachment, pp 53-54.

3 Compliance with the Legislative Standards Act 1992

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that 'fundamental legislative principles' (FLPs) 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 examined the application of FLPs to the Bill and considers that clauses 4, 5, 8 and 16 raise potential issues of fundamental legislative principle.

Delegation of administrative power

Section 4(2)(a) of the LSA provides that the principles of FLPs include requiring that legislation has sufficient regard to rights and liberties of individuals. Sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[131]

Clause 16 amends section 73 of the *Water Reform and Other Legislation Amendment Act 2014* (WROLA Act) (which amends section 365 of the *Water Act 2000*) to allow the chief executive to decide whether the tenure, or part of the tenure, is a cumulative management area (CMA) tenure.

Section 365 of the *Water Act 2000* provides that a CMA can be declared if an area contains two or more petroleum tenures, including tenures on which coal seam gas (CSG) activities operate and where there may be cumulative impacts on groundwater resulting from water extraction by the tenure holders.

The WROLA Act, at section 73(3), states that if the area of an identified resource tenure is partly within and partly outside the declared area, the declared area is taken to include the whole of the area of the resource tenure.

Clause 16 provides that pursuant to new section 3B(a) the chief executive must have regard to the impacts on underground water caused by, or likely to be caused by, the exercise of underground water rights by the tenure holder. Section 3B(b) provides that the chief executive must also have regard to advice from the Office of Groundwater Impact Assessment, the tenure holder and any other entity the chief executive considers appropriate.

The amendments provided by clause 16 will allow for the chief executive to make a decision whether a tenure, or part of the tenure, is a CMA tenure. The provision does not allow for any appeal in relation to a decision made by the chief executive.

<u>Potential FLP issues</u>

Clause 16 will allow the chief executive significant decision making power in circumstances where there is no right to appeal a decision after it is made. This is a potential breach of section 4(3)(a) of the LSA which provides that whether legislation providing an administrative power has sufficient regard to the rights and liberties of individuals is dependent on whether the power is properly defined and subject to appropriate review.

[131] *Legislative Standards Act 1992*, s 4(3)(a).

Legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined. The Office of the Queensland Parliamentary Counsel's OQPC Notebook states, 'Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision'.[132]

The former Scrutiny of Legislation Committee took issue with provisions that did not sufficiently express the matters to which a decision-maker must have regard in exercising a statutory administrative power.[133]

Legislation should make rights and liberties dependent on administrative power only if subject to appropriate review. The OQPC Notebook states, 'Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review'.[134]

The explanatory notes acknowledge the issue and address it in the following way:

> The amendment proposed allows the chief executive to decide, for a tenure that is partially within and partially outside a cumulative management area, whether the tenure, or part of the tenure is a cumulative management area tenure. However the provision does not allow a tenure holder the right of appeal or review. In this case, not providing the right of appeal or review is justified as the tenure holder will be consulted as part of the decision-making process. Additionally, not giving the tenure holder the right of appeal or review is consistent with the approach taken for the remainder of chapter 3 of the Water Act groundwater management framework provisions.
>
> Furthermore, this amendment forms a subsection to section 365, which gives the chief executive the ability to declare a cumulative management area and give notice of this declaration to each cumulative management area tenure holder. There is no right of appeal or review given to cumulative management area tenure holders when a cumulative management area is declared under the Water Act. Consequently, it is considered inappropriate and inequitable to give this right to tenure holders whose tenure is partly in and partly outside the cumulative management area when this right is not given to cumulative management area tenure holders whose tenure is wholly within a cumulative management area.[135]

Committee comment

It is considered that, on balance, clause 16 has sufficient regard to the rights and liberties of individuals effected by a decision of the chief executive to make a tenure, or part of the tenure, a CMA tenure.

In reaching this view, the committee noted that the matters which must be regarded by the chief executive are set out in new clause 3B(a). The committee also noted that the chief executive must have regard to advice from the Office of Groundwater Impact Assessment and the tenure holder.

Although the provision does not allow an appeal in relation to a decision made regarding a tenure partially inside or outside a CMA, this is consistent with the provisions contained in chapter 3 of the *Water Act 2000* which do not provide an appeal process for tenure holders whose tenure is wholly within a CMA.

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[132] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 15.

[133] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 15; citing Scrutiny Committee Annual Report 1998-1999, para. 3.10.

[134] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 18.

[135] Explanatory notes, Water Legislation Amendment Bill 2015, pp 5-6.

Delegation of administrative power

Section 4(2)(a) of the LSA provides that the principles of FLPs include requiring that legislation has sufficient regard to rights and liberties of individuals. Sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons.[136]

River improvement trusts have been established to protect and improve rivers across Queensland. These trusts are statutory bodies constituted under the *River Improvement Trust Act 1940* and are responsible for repairing and preventing damage to rivers, and preventing or mitigating riverine flooding of land.

As at 30 June 2015, there were 11 trusts operating with the membership of each trust comprising two councillors of each constituent local government appointed by the local government and up to three persons appointed by the Minister.

Currently, section 10(1)(a) of the *River Improvement Trust Act 1940* provides that a trust may undertake or maintain any works for the purpose of achieving the object of the Act. Pursuant to section 10(1)(b) a trust must undertake or maintain any works the chief executive directs the trust to undertake or maintain.

Section 10(3) provides that the power of the trust to undertake works is subject to the direction or approval of the chief executive, to construct, establish, carry out, manage, or control the works concerned.

Clause 4 amends the aforementioned provisions of section 10 and in particular the role of the chief executive in relation to the works the trust carries out. Section 10(1)(a) is amended to provide that a trust may undertake or maintain any works for the purpose of achieving the object of the Act other than works the chief executive directs the trust not to undertake or maintain.

Pursuant to amended section 10(1)(b) and new section 10(1)(c) a trust must:

- undertake or maintain any works the chief executive directs the trust to undertake or maintain for the purpose of achieving the object of this Act; and
- comply with any direction the chief executive gives the trust about the undertaking or maintenance of works under paragraph (a) or (b).

Section 10(3) is amended to confirm that works carried out are subject to the direction of the chief executive.

Potential FLP issues

Clause 4 potentially increases the power afforded to the chief executive in directing the works to be carried out, or not carried out, by a river improvement trust. Pursuant to section 4(3)(c) of the LSA, legislation should allow the delegation of administrative power only in appropriate cases and to appropriate persons. Generally, powers should be delegated only to appropriately qualified officers or employees of the administering department.

The OQPC Notebook provides that the appropriateness of a limitation on delegation depends on all the circumstances including the nature of the power, its consequences and whether its use appears to require particular expertise or experience.[137]

[136] *Legislative Standards Act 1992*, s 4(c).

[137] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 33.

It may be argued that while the chief executive is at a significantly high level and is the appropriate officer to carry out the role pursuant to clause 4, the membership of the trust should be able to carry out its core functions without direction from someone outside the trust's membership. This is the view of the Local Government Association of Queensland (LGAQ) who in its submission to the committee stated:

> The additional powers granted to the chief executive to direct the trusts may permit unreasonable and unchecked obligations that local governments are unable to fulfil. For instance, the power to direct a trust to undertake a work may commit the Trust to fund the delivery of infrastructure or monitoring programs that are beyond the capacity of current funding arrangements. Such a commitment could also pre-empt existing plans for other works deemed more important by the Trusts by directing resources and funding away from them. These powers may also provide a mechanism for the chief executive to devolve responsibilities to the trusts that should more appropriately reside with the State. The Association would seek for the Committee to strongly consider the need for the additional powers granted to the chief executive under this Bill.[138]

In response to the LGAQ's submission, DNRM advised:

> Section 10(1)(b) of the *River Improvement Trust Act 1940* (RIT Act) provides that a trust must undertake or maintain any works the chief executive directs the trust to undertake or maintain. Clause 4(2)(b) of the Water Legislation Amendment Bill 2015 mimics this provision with no new power to the chief executive being given. Clause 4(2)(c) provides that a trust must comply with any direction the chief executive gives a trust about the undertaking or maintenance of works. This clarifies the nature of a trust's obligation to comply with a direction of the chief executive under section 10(1)(b) of the RIT Act. It clarifies that the way in which a trust undertakes or maintains works is subject to the chief executive's direction alongside the undertaking or maintenance of works itself. As such, it is appropriate to view this as a clarification of an existing power rather than a new power in its own right.
>
> Also clarified are provisions related to the recent removal from the RIT Act of the need for trust works to gain approval of the chief executive. A minimum level of oversight over trust works is restored to the chief executive by providing for the chief executive to limit those works a trust may undertake or maintain by directing trusts not to undertake or maintain particular works should the chief executive see fit. In this way, the chief executive's oversight role is partially restored while maintaining the streamlining and red-tape reduction for trusts originally intended by the recent amendments affecting trust works (which took effect 19 December 2014).

Committee comment

The committee is satisfied with DNRM's response to LGAQ's concerns.

Rights and liberties

Section 4(2)(a) of the LSA provides that the principles of FLPs include requiring that legislation has sufficient regard to rights and liberties of individuals. Sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

Clause 5

Clause 5 inserts new transitional part 9 into the *River Improvement Trust Act 1940* (RIT Act). New section 24 provides that each relevant area, and the trust for each relevant area, continued to be in existence under the RIT Act on and after 19 December 2014.

[138] Local Government Association of Queensland, Submission 102, p 2.

Section 24(2) provides that for the appointment by the Minister before the commencement of a person to the membership of the trust for a relevant area, section 5(1)(b) is taken never to have required the number of persons to be appointed to be as stated in a regulation.

The explanatory notes provide further information on the transitional provision:

> The transitional provision confirms the continuation from 19 December 2014 of all river improvement trust areas and trusts in existence immediately before that date, and confirms the validity of appointments to existing trusts made by the Minister in accordance with the relevant provisions of the River Improvement Trust Act prior to 19 December 2014.[139]

Clause 8

Clause 8 inserts new chapter 9, part 9 into the *Water Act 2000.* New section 1282 confirms the establishment of the Lower Herbert Water Management Authority (the Authority) from 16 December 2005 in order to remove any doubt as to the validity of its formation pursuant to subordinate legislation No. 334, the *Water and Other Legislation Amendment Regulation (No. 1) 2005*.

New section 1282(a)-(c) provides for the following:

(a) the formation of the Authority on 16 December 2005

(b) the appointment, employment or engagement of the office holders, employees and agents of the Authority since its formation on 16 December 2005 as confirmed and validated under this section

(c) the actions of the Authority, its office holders, employees and agents since its formation on 16 December 2005 as confirmed and validated under this section.

Potential FLP issues

Both clauses 5 and 8 allow for provisions to operate retrospectively. Section 4(3)(g) of the LSA provides that legislation should not adversely affect rights and liberties, or impose obligations, retrospectively. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

In relation to clause 5, the explanatory notes provide the following justification:

> Despite this retrospectivity, the provision does not appear to adversely affect any individual's rights and liberties, or impose obligations on any individual. This is because river improvement trusts and their members have continued to operate as though unaffected. This transitional provision simply puts the continued existence of trusts beyond doubt should the validity ever be questioned in the future. As such, it is argued that the fundamental legislative principles have not been breached in terms of the retrospectivity of the provisions.[140]

The explanatory notes address the issue of retrospectivity contained in clause 8 as follows:

> In this case, retrospectivity is justified to remove any doubt about the validity of actions taken by the water authority since its establishment in 2005. In doing so, the provision provides certainty for the authority and all entities having interacted with the authority, including water users.[141]

The explanatory notes (at page 9) also advise that the provision is necessary as the amalgamation of the Authority was effected pursuant to section 548 of the *Water Act 2000* by way of the 2005 regulation instead of section 690 which provides that a regulation may amalgamate two or more water authorities and dissolve the former authorities.

[139] Explanatory Notes, Water Legislation Amendment Bill 2015, p 5.
[140] Explanatory Notes, Water Legislation Amendment Bill 2015, p 5.
[141] Explanatory Notes, Water Legislation Amendment Bill 2015, p 5.

Committee comment

In relation to clause 5, the committee considers that given the explanation provided in the explanatory notes, in that the provision does not appear to have affected the rights and liberties of individuals since December 2014, the retrospectivity has sufficient regard to rights and liberties in the circumstances.

The committee notes that clause 8 seeks to correct an error made in regulation no. 334 of 2005 when establishing the Authority over ten years ago. Given the time which has elapsed, and the reasons provided in the explanatory notes in relation to validity, the committee considers that the validating provision is appropriate in the circumstances.

3.2 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Appendices

Appendix A – List of submitters

Sub #	Name
1	Shirley Osborne
2	Goondiwindi Regional Council
3	Landholder Services Pty Ltd
4	Sarah Moles and Tom Crothers
5	Gillian Pechey
6	Robyn Jackson
7	G Deepwater
8	Dianne Brown
9	Jenny Fitzgibbon
10	Lily Podger
11	Diana O'Connor
12	Gaby Luft
13	Rohan Patterson
14	John Jenkyn
15	Wendy and John Chammen
16	Robyn Hofmeyr
17	Rev Graham Slaughter
18	Robyn and Marcus Finch
19	Graham Earle
20	Kamala Alister
21	Lesley Halliday
22	Jill Sampson
23	Drew Nichols
24	Steve Swayne
25	Annette Philp
26	Lorna Jelinek
27	Sharon Vaughan
28	Maureen Cooper
29	Debbie Brischke
30	Dan Walsh
31	Wildlife Preservation Society of Qld
32	Janelle Vaughan
33	Frank Ekin
34	Maynard Heap
35	Brian Stockwell

Sub #	Name
36	Western Rivers Alliance
37	Carol Cullen
38	Cherry Llewellyn
39	Ana Greenfield
40	Joan Vickers
41	Laurel Wilson
42	Sue Haining
43	Penelope Tod
44	Ross Ellis
45	Kate Eagles
46	Jane Hyde
47	Dr Maura Harvey
48	Nonie Metzler
49	Rob Aked
50	Leigh Evans
51	Bimblebox Nature Refuge
52	Property Rights Australia
53	Liz Dunn
54	GVK Hancock Coal
55	Environmental Defenders Office of Northern Queensland
56	Robert J Bell & Dawn E Forrer
57	Rosewood District Protection Organisation Inc
58	Alliance to Save Hinchinbrook Inc
59	Marie Kirby
60	Dr Vaughan Kippers
61	Joanne Salmond
62	Bundaberg Fruit & Vegetable Growers
63	Great Barrier Reef Marine Park Authority
64	Doug George
65	Queensland Resources Council
66	Bruce Currie
67	Qld Murray-Darling Committee
68	Marina Assenbruck
69	Mark Stuart-Jones
70	Qld Farmers' Federation
71	AgForce Qld
72	Gecko
73	Cotton Australia

Sub #	Name
74	Ross Smith
75	Bronwyn Marsh
76	Save the Mary River Coordinating Group
77	Qld Conservation
78	Protect the bush alliance
79	Sally Chudleigh
80	Peter M Brown
81	David Arthur
82	WWF-Australia
83	Wide Bay Burnett Environment Council
84	Lock the Gate Alliance
85	D. Glenda Pitman
86	Andrew Brigden
87	Merrilyn Williams
88	Mary River Catchment Coordination Assoc
89	Emily Frampton
90	Labor Environment Action Network, Qld
91	Garry Reed
92	The Wilderness Society
93	The Greater Mary Association
94	Sunshine Coast Environment Council
95	Jay Devine
96	Environmental Defenders Office
97	Nari Lindsay
98	Marie Hallinan
99	Karen Lavin
100	Colin Thompson
101	Upper Dawsom Branch WPSPQ
102	Local Government Association of Queensland (LGAQ)
103	State Council of River Trusts Qld

Appendix B – List of witnesses at the public briefing held on 30 November 2015

Witnesses	
Department of Infrastructure, Local Government and Planning	
1	Mr James Coutts, Executive Director, Planning Services, Planning Group
2	Mr Jesse Chadwick, Director, Planning Services, Planning Group
3	Ms Hayley Rayment, Principal Policy Officer, Planning Services, Planning Group
Department of Natural Resources and Mines	
4	Ms Sue Ryan, Deputy Director-General, Policy and Program Support
5	Ms Leanne Barbeler, Acting Executive Director, Water Policy, Policy and Program Support
6	Ms Steph Hogan, Acting Director, Strategic Water Policy, Water Policy, Policy and Program Support
7	Ms Claire Hurst, Acting Director, Service Delivery Support, Operations Support, Natural Resources
8	Mr Darren Moor, Executive Director, Central Region, Natural Resources (also Regional Water Champion within DNRM)

Appendix C – List of witnesses at the public hearing held on 15 February 2016

Witnesses	
1	Mr Michael Murray, Cotton Australia
2	Mr Ian Johnson, Queensland Farmers Federation
3	Ms Ruth Wade, Queensland Farmers Federation
4	Dr Dale Miller, AgForce
5	Mr Daniel Phipps, AgForce
6	Ms Revel Pointon, Environmental Defenders Office
7	Dr Tim Seelig, The Wilderness Society
8	Mr Nigel Parratt, Queensland Conservation
9	Mr Andrew Barger, Queensland Resource Council
10	Mr Paul Taylor, GVK Hancock Coal
11	Mr Andrew Mifflin, GVK Hancock Coal
12	Mr Tom Crothers, Stellar Advisory Services
13	Ms Jane Hyde
14	Mr George Houen, Landholder Services Pty Ltd
15	Ms Leanne Barbeler, Department of Natural Resources and Mines
16	Ms Steph Hogan, Department of Natural Resources and Mines
17	Mr Saji Joseph, Department of Natural Resources and Mines
18	Ms Rachel Burgess-Dean, Department of Natural Resources and Mines
19	Mr Darren Moor, Department of Natural Resources and Mines
20	Mr Christopher Loveday, Department of Environment and Heritage Protection
21	Mr Justin Carpenter, Department of Environment and Heritage Protection