

Ed Willett
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Dear Mr Willett

Re: Public Submission to June 2002 Assessments: Water Reform

I refer to your call for public submissions in relation to the June 2002 assessments by the National Competition Council.

One of the issues you are considering in relation to environmental allocations in Queensland is whether, as a result of the modified Burnett Water Resource Plan,
'the new environmental objectives are still in accordance with the provision for environmental commitments under CoAG water reform'

Modifications to the Burnett Water Resource Plan were made to accommodate proposed new water storage infrastructure on the Burnett River (generally referred to as Paradise Dam). Approval for the infrastructure was on the basis of an Environmental Impact Assessment carried out on behalf of Burnett Water, a wholly state-owned company. As a result of widespread criticism of both the science and the process in the impact assessment, the Environmental Institute of Australia (Queensland Branch) has instigated a review. Many of the criticisms were presented at a public forum organised by the Institute on 13th February. On the basis of the forum, it was apparent that there were a number of significant issues which could bring into question the conclusions of the impact assessment that the infrastructure was ecologically sustainable. The Institute is seeking clarification of these issues from the State Government and other parties, prior to formalising our position (see attached).

On this basis, we would consider it inappropriate for the NCC to deliver a favourable outcome on the issue of the amended Burnett Water Resource Plan until these matters are resolved.

Yours faithfully

Mary Maher
President, South-east Queensland Division.

25 March 2002

Mr Tom Barton
Minister for State Development
Executive Building
George Street
Brisbane 4001.



Dear Minister Barton

The Environmental Institute of Australia is a professional body one of whose concerns is the integrity and role of a formal, scientific environmental impact assessment process in decision making. (Attachment A contains background information on the Institute and its 2002 program)

Recently, a number of claims have been made about serious shortcomings in the scientific standard and process of the environmental impact studies undertaken for the Burnett River Dam. In response to members' requests, the Institute hosted a public Forum held on 13 February 2002. The Forum was essentially an issues-identification session and discussion. The Institute's expressed intention was that the February Forum be followed by a second forum with full representation of all stakeholders, in the event that the issues raised in the first forum required further exploration with a wider group of stakeholders.

As a result of the February Forum, the issues raised were seen to be sufficiently compelling to seek further clarification at this point in time. This letter outlines some of those issues, and **seeks an opportunity for discussion of these with government and industry representatives**. It is our intention to develop an Institute position following these proposed discussions, and undertake wider communication of the Institute's understanding of the issues and government's response to these.

The Institute's interest is in clarification of **the process and scientific standards in relation to environmental practice** involved in the Burnett River's water resource plan and storages' assessments. The Institute does not seek to challenge the government's prerogative to make decisions regarding water resource developments and plans in light of all the information presented. However the Institute is seeking to determine if the decision-making process in relation to the Burnett catchment and Burnett Dam raises issues regarding professional standards of environmental management policy and practice, not only in this specific instance but also in relation to other future or existing development proposals in Queensland.

The key questions raised by the Institute for your consideration are contained in Attachments B & C.

The matters in this letter and its attachments are proposed as discussion points in the interests of a number of relevant, internally and externally driven, State environmental management issues, for example:

- Ensuring ongoing confidence of all professionals and groups (as represented by bodies such as the Environment Institute of Australia) in government, industry, research and consultancy work in environmental management
- Ensuring ongoing confidence of industry and regional sector groups in the integrity of government decision-making processes,
- Achieving compliance with the technical requirements of the National Competition Council in relation to the water reform program and the allocation of water to the environment according to the 12 National Principles (ARMCANZ and ANZECC, 1996)
- Achieving Bilateral Accreditation of State environmental impact assessment processes under the Environment Protection and Biodiversity Conservation Act
- Ensuring accreditation and consequent Commonwealth component funding of Natural Resource Management Plans for regions under the National Action Plan for Salinity and Water Quality

- State demonstration of compliance, and hopefully leadership in terms of criteria proposed for new storages under the World Commission for Dams.

Attachments B and C contain the major issues raised in the February Forum about which we are seeking further dialogue with the Department of State Development and Burnett Water as the proponent for the Burnett River Dam. Attachment B outlines questions relating to the Impact Assessment **process** and Attachment C relates to the **content** of the Impact Assessment documentation.

There are several ways in which this dialogue might occur, and two are outlined below:

- A May forum has been proposed where the program would be agreed between the Environment Institute of Australia, appropriate Departments and other key stakeholders, and focused on matters raised about due process and scientific issues. The Forum would provide an opportunity for in-depth discussion of key matters raised, from all perspectives.
- Alternatively, or in conjunction with the above, there could be more targeted meetings between Institute personnel and representatives of Government and other key stakeholders to clarify questions raised.

Timing of the Institute's present inquiry overlaps with the **National Competition Council's** call for submissions to its 2002 Assessment of the State's progress on the Water Reform agenda. No exchange of information or dialogue is likely to have taken place before the closing date for the Council's submissions (1 April). The Institute will therefore be advising the NCC of our approach to the Queensland Government and of the matters for further clarification outlined in the Attachments B and C.

On behalf of the Environment Institute of Australia here in South-east Queensland, we respectfully ask you to advise how you would prefer the matters raised in this letter to be taken forward. Note that, should such a dialogue not be forthcoming, we would seek to prepare the Institute's further deliberations on the matter without that input.

Please do not hesitate to contact myself, or Professor Geoff McDonald, for further discussion of this invitation and related matters.

Yours faithfully,

Mary Maher
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Professor Geoff McDonald, Department of Geographical Sciences and Planning, University of Queensland
Policy and Practice Subcommittee, SEQ Division of EIA
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Cc: Director, Burnett Water Pty Ltd

Attachment A: Background to the Environment Institute of Australia - South-east Queensland Division

The Environment Institute of Australia as a national body is the largest and oldest professional association for environmental practitioners in Australia, with Divisions in every State including two for Queensland - South-east and Far North Queensland.

The SEQ Division of the Environment Institute of Australia (EIA) represents more than 350 environmental practitioners across the engineering, legal, environmental, geological, agricultural, natural resource management and social professions. Its members are employed in technical and policy delivery across all spheres of government, academia, consultancy, industry, the community sector and education.

The EIA is well placed to be the peak institute in Australia representing as it does all the professionals engaged in environmental practice. In this role it sets the standards for environmental practice and works to facilitate the achievement of a more ecologically sustainable Queensland ('the Smart State') through its members' contributions to good environmental outcomes across the State.

Its goal is to promote excellence in environmental practice by private and public sector organisations, with ultimate benefit to Queensland. It is also seeking to use the diversity and depth of its membership's experience across the broadest spectrum of environmental practice to influence policy and institutional arrangements for effective delivery of ecological sustainability in Queensland.

It aims to providing professional leadership and improve environmental practice through:

- High quality and relevant professional development services provided to members across the region and appealing to the range of professions operating as environmental practitioners.
- Promoting the required policy, legislative and institutional frameworks for ecological sustainability.

Major strategic directions in 2002 will be based around the following priorities:

1. Conducting a Professional Development Program of members forums, project studio sessions for environmental practitioners and socials which will generate operating funds for an executive officer
2. Hosting a professional, stimulating and financially robust National EIA conference in Queensland
3. Advocacy work in selected topics of Policy and Practice by environmental professionals
4. Active student program on more University campuses;
5. Developing a proposal for managing Accreditation of environmental professionals for EPA's consideration; with implementation if successful
6. Preliminary work to set up arrangements for Queensland's Environmental Excellence Awards (with Environment Business Australia).

Introducing the IA questions in Attachments B & C:

Attachments B & C which follow contain questions relating to the Impact Assessment processes for the Burnett River water resource planning and storages. The questions are grouped into two categories:

- Attachment B - those relating to the **processes** for assessing the implications of the technical investigations.
- Attachment C - those relating to **contents** of the technical investigations

The questions themselves are arranged under 'best practice' environmental impact assessment principles as expressed in the *Intergovernmental Agreement on the Environment* (1992) and endorsed by the Commonwealth Environmental Protection Agency (1995).

Overarching Questions

- Can the Impact Assessment (IA) process achieve its potential if there are not specific Terms of Reference for the project?
- Is not the integrity of a process of IA diminished as a public decision-making tool if government commitment to the project is announced before the IA has commenced?
- Can the integrity of other planning, especially in this case the Water Resource Planning process, be maintained if it can be replaced by special project legislation affecting the core area of the Plan?
- Why was the public not informed at any time that the EIA results would be used to amend the Water Resource Plan?
- Why was the new published framework for assessing the economic viability and ecological sustainability of new water infrastructure not used in the assessment of Paradise Dam?
- Is not the integrity of the EIA process diminished by the release of new reports and the undertaking of hydrological modelling after the completion of the EIA,?

Principles for design and development of effective IA processes

B1 Clear mandate and provisions: vested in law, have specific, enforceable requirements, and prescribe the responsibilities and obligations of proponents and other parties

- Is the IA process set out in the State Development and Public Works Organisation Act being applied consistently?

B2 Explicit goals and objectives: a clear purpose and dedication to achieving environmental protection and/or sustainable development

- Were the Terms of Reference set out generically in the Bundaberg 2000+ project sufficiently specific for this major project?
- Was the assessment and its evaluation independent? Could it be argued that the proponent of the project was also the primary evaluation group?

B3 Uniform, consistent application: automatically applied to all proposals and actions with potential environmental effects and consequences

- Should the extensive research and consultation undertaken as part of the WRP process be set aside for major water resource developments?
- Was the scope of interests considered by the Commonwealth under issues of national interest adequate (eg impacts of reduced flows on lungfish and impacts of reduced flows on environmental flow requirements)?
- Is there a potential conflict of interest between the DSD and proponent given that the Minister is the primary shareholder?
- Is the process followed here consistent with the requirements for IA under the IGAE and related accreditation under the EPBC Act?
- Were all the studies known to be prepared for this, and related projects, finalised satisfactorily and considered as a part of the IA process?

B4 Relevant scope of consideration: examine all pertinent environmental options to and aspects of a proposal, including cumulative effects, interrelated socio-economic, cultural and health factors, and sustainability implications

- Were all research documents released for public comment and considered in the IA process?
- Was the time available sufficient for considered review of the technical information in the IA and related supporting studies?

- Does the process meet Principle 6 of the COAG agreement which states - "*Further allocation of water for any use should only be on the basis that natural ecological processes and biodiversity are sustained.*" ?
- Were all the studies known to be prepared for this, and related projects, finalised satisfactorily and accessed in the IA?

B5 Flexible, problem-solving approach: adapted to deal with a range of proposals, issues, and decision-making situations

B6 Open, facilitative procedures: transparent and readily accessible, with a traceable record of assessment decisions and timely opportunities for public involvement and input at key stages

- Did the process give adequate consideration to a sufficient range of alternatives to the dam for meeting water resource needs? Did it include those identified by other water planning and assessment initiatives in the district?
- Was the period (20 days) for the public to research and respond to the IA documents adequate?
- Was the period (14 days) for the government agencies to research and respond to the IA documents adequate?
- Did the consultants make adequate effort to consult all interest groups, especially Wakka Wakka Jinda , landholders and the Inland Burnett community
- Was there a process to advise the public of the work being undertaken on the IA, including the Supplementary Report, and its impending release?
- Were government agencies able to release all of their technical reports for public scrutiny?
- Did the summary documents provide an adequate coverage of all issues to enable respondents to identify key impacts, both positive and negative?
- Was there any explicit process of documenting and responding to submissions, including for the Supplementary Report?
- Was the prior announcement that the project would be built a major deterrent to effective public involvement?
- How can the limited public consultation during the EIA be deemed sufficient to omit a community consultation process for the changes to the WRP?
- Why were key studies released after the period for community consultation on the EIS closed, preventing public consideration and comment of these documents?
- Why was there no public comment permitted for the supplementary report?

B7 Necessary support and guidance: requisite level of resources and procedural guidance for conducting assessments in accordance with requirements, principles and standards of good practice

See open facilitation procedures above.

B8 "Best-practice" standards: undertaken with professionalism, objectivity and credibility, as identified by "best-practices" in impact science, public consultation and process administration

See open facilitation procedures above.

B9 Efficient, predictable implementation: applied in a timely manner that fosters certainty, minimizes delay and avoids unnecessary burdens on proponents

B10 Decision-oriented: provide sound, tested practical information that is readily usable in planning and decision making

B11 Related to condition-setting: explicitly linked to approvals and, as necessary, to specified terms and conditions

B12 Follow-up and feedback in-built mechanisms: explicit measures for checking on compliance with conditions, monitoring effects, managing impacts, and auditing and evaluative performance

- Where potentially significant impacts of a proposal are identified, it becomes important if the project is approved, to set as conditions feasible and enforceable mitigation measures. Are all the mitigation and monitoring strategies accompanied by explicit mitigation measures?

C1 State the objectives of the proposed action

- Were the project objectives based upon the full set of criteria for ecologically sustainable development - ecological, social, cultural and economic? If not, why not?

C2 Analyse the need for the proposed action

- Was the Needs Analysis conducted using best practice techniques? If so, which techniques? If not, why not? What were Treasury recommendations on the viability of the water allocations required by the proposed structures? Why has the report by Treasury on the viability of the water allocations not been made public?
- Was the need for the project analysed in conjunction with full introduction of demand management strategies? If so, what assumptions were made about future demand levels? If not, why not?
- Was the need analysed on the basis of wise use; for example provision of water for highest return?
- How did the needs analysis deal with social equity issues between upstream and downstream communities and industries?

C3 Include information and technical data adequate to permit a careful assessment of the impact on the environment of the proposed action

See 'Examine any feasible and prudent alternative to the proposed action' below.

C4 Examine any feasible and prudent alternative to the proposed action

- What feasible and prudent alternatives were identified and what studies were conducted to evaluate these?
- What were the findings of the investigations of alternatives to the proposed dam? What timeframes and investment arrangements were considered in relation to the alternatives?
- What weighting was provided to any stakeholder review of the alternatives?

C5 Describe the environment that is likely to be affected by the proposed action and by any feasible and prudent alternatives to the proposed action

- What baseline information was available about past and present condition of the Burnett River, its catchment and marine receiving waters; and about trends in that condition?
- What conclusions were drawn about that condition?
- How do these conclusions from primary data match those from other studies? How were any differences in assessment of condition and trends addressed?

(a) *Species assessments*

- How comprehensive and reliable was the information about lungfish - its distribution and changes over time, its habitat needs, its lifecycle and lifecycle needs? Why was the Lungfish Scientific Report not made public during the EIS process?
- How comprehensive and reliable was the information about the Elseya turtle - its distribution and changes over time, its habitat needs, its lifecycle and lifecycle needs
- IA's method of dealing with uncertainty about lungfish and turtle - interpretation and demonstration of precautionary principle?
- What were the results of any peer review of key scientific inquiries on matters of contention such as key species and their needs, environmental flows

(b) *Environmental Flows*

- How were questions of reliability of models dealt with? How were difference in estimates by the Technical Advisory Panel for the Water (Allocation Management) Resources Plan and the IA addressed?
- How were impacts on receiving waters and their dynamics assessed and addressed?

- How were impacts on other river management values (riparian, wildlife corridor values; regional ecosystem status vegetation) assessed and addressed?

(c) Salinity

- How was salinity now and future assessed and addressed?
- Given that construction of the Paradise Dam, along with amendments to the Water Act will lead to a major reduction in environmental flows in the Burnett and a doubling of the amount of available irrigation water, on what basis did the State Government decide that the Paradise Dam would not increase the severity of salinity in this priority catchment?

(d) Impact on Fisheries

- How were impacts on fisheries (freshwater, estuarine, marine) assessed and addressed? What costs were assigned / assumed in respect of these fisheries
- Why was most current research (Stuart Bunn – Griffith University) on the linkage between frequency and timing of river flows and commercial fish catches not used in the EIA? Given these findings, how could it be determined in the EIA, that fisheries would not be significantly affected?

(e) Inequitable Water Distribution

- How were the impacts on Inland Burnett communities assessed and addressed?
- Why have the Inland Burnett, who have 40% of the population, and 29% of current water allocations in the Burnett catchment, been assigned only 20% of water from the new infrastructure? (Fred Haigh Dam and the Kolan River are officially included in the Burnett Catchment, due to the connection of these systems through irrigation channels)
- Why wasn't the Inland Burnett given more consideration, when this is clearly the last infrastructure development for the Burnett, and the Inland Burnett does not have options available to the coast such as desalinisation and substantial improvements in water use efficiency?
- How can equitable water distribution be determined when the planning framework for the Burnett region (WideBay 2020) does not include the 11 Inland Burnett shires.

(f) Cultural heritage for Aboriginal people

- Why do the Wakka Wakka Jinda people feel they have not been adequately consulted in the EIA process?
- How does Burnett Water Pty Ltd believe that a few meetings constitutes extensive consultation?
- Why was it reported in the EIS that, because there weren't any officially registered sacred sites, the impact would be minimal on aboriginal people?

(g) Costs and benefits assessed

- What level of conservatism / optimism in estimates
- Losses from reduced water harvesting
- Losses from reduced water reliability
- Gains from higher production, new markets
- Costs of increased salinity
- Loss of future opportunities for inland Burnett communities
- Costs associated with algal blooms
- Losses to Fishing and Tourism and
- Costs associated with loss of ecosystem services
- Costs of complying with mitigation strategies.

C6 Assess the potential impact on the environment of the proposed action and of any feasible and prudent alternative to the proposed action, including, in particular, the primary, secondary, short-term, long-term, adverse and beneficial

effects on the environment of the proposed action any feasible and prudent alternatives to the proposed action

- How were feasible mitigation measures established? For example were they evaluated in terms of their proven track record elsewhere?
- What degree of mitigation do they provide?
- Are they cost-effective?

C7 Outline the reasons for the choice of the proposed action

C8 Describe, and assess the effectiveness of, any safeguards or standards for the protection of the environment intended to be adopted or applied in respect of the proposed action, including the means of implementing, and monitoring arrangement to be adopted in respect of, such safeguards or standards

Burnett Water Pty Ltd claims that the environmental requirements for Paradise Dam can be met through a series of mitigation strategies, most of which have not been detailed. However, this myriad of mitigation strategies rely on the development and implementation of an infrastructure operating plan. How can this be regarded as an acceptable approach, when an operating plan for Walla Weir still has not been finalised, several years after commencement of use, because a compromise cannot be reached between extraction and environmental protection.

C9 Cite any sources of information relied upon in, and outline any consultations during, the preparation of the environmental impact statement