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Submission

to

NSW Department of Planning, Industry and Environment

on the

Coastal Harvestable Rights Review

Introduction

The Clarence Environment Centre (CEC) has maintained a shop-front presence in Grafton for over 30 years and has a proud history of environmental advocacy, including where water issues have been a recurring concern.

Discussion

In recent months, the Department of Planning, Industry and Environment has released a series of regional water strategies for public comment, which come hard on the heels of the extensive roll-out of “water Sharing Plans, some of which have only been gazetted within the past 2 years.

Clearly, the Department is being placed under extreme pressure from vested interests to provide legal access to more water. Those vested interests, spurred on by government policies that have made water a tradable commodity, view water that flows uninterrupted into the ocean, as a wasted asset. There are even some, it seems, that view water that flows past their properties in a similar way!

All previous water use plans and strategies have acknowledged the need for environmental flows, and claim to equitably share that water between the environment, irrigators, and other water users, i.e., the “triple bottom line” consideration, the supposedly equal consideration of social, economic and environmental needs.

The reality is however, that when drought-driven water shortages occur, those glib assurances mean little, with priority always given to the economic and social side of the equation, and all we ended up with was scandal after scandal, revealing massive water theft and roting of the system. In the meantime, rivers ceased to flow, causing unprecedented fish kills and the decline and collapse of entire ecosystems as a result.

The Introduction to the Discussion Paper acknowledges that: *“Water is one of the most important natural assets in New South Wales. The community, businesses and the environment all rely on water to survive and prosper”*.

We have to ask therefore, given that acknowledgement, **why did government allow this natural asset to be effectively privatised, to be owned and traded for profit?**

The many options put forward in the current round of regional water strategies, are all about attempting to make a finite resource go further, something no one is prepared to admit is not possible, for fear of antagonising those very noisy, and often bullying vested interests. **This is what happens when individuals or corporations are allowed to own and sell water!**

Water is essential for life on Earth, and should never be allowed to be owned and traded for profit. Equitable sharing of this life-sustaining substance must be taken seriously, and not simply used as a slogan.

Summary

The Clarence Environment Centre is strongly opposed to the increase in either harvestable water rights, or the building of dams on 3rd order streams.

Water is a critically important resource that needs to be shared by all, not just a small percentage of vested interests. The fact that Governments have turned water into a tradable commodity is extremely regrettable, and has already made turned that resource into an investment opportunity for those who can afford it. **We strongly urge the government to take back control of all water resources.**

The call for increased harvestable rights is driven solely by economic considerations. Firstly by those who believe that, because they own land, the water that falls on that land belongs to them, and secondly by those who wish to invest and trade in a valuable commodity which will make them wealthier.

The suggestion that the farming and mining industries should not have to pay for water, while every other industry in the country does, is unacceptable, and rivers must be allowed to flow for the benefit of all.

We find the using of the recent tragic bushfire season as an argument to support the case for more dams to provide firefighters with water, is reprehensible, and deliberately misleading. Everyone knows, or should know, that in an extended drought dams simply dry up. That process is of seepage and evaporation will occur, no matter how many dams are built. To ask us to believe that a farmer or irrigator will retain water for bushfire fighting purposed is ludicrous, but one currently being promoted by the Minister herself.

We strongly believe that, not only should there be no increase in harvestable rights, but **the responsible agencies should monitor and enforce strict compliance with the current regulations**, with meters fitted to all pumps, other than domestic, to ensure compliance.

We also ask government to regulate all irrigators, particularly the intensive horticultural industry on the NSW north coast. which should be required to prepare an environmental impact assessment, and a water management plan which spells out how much water will be required, and where that water will come from.

Right now, the authorities have no idea how much water this industry is using, with the result that 3rd order streams and greater are already being starved of water during low rainfall periods, with some ceasing to flow altogether. And still dams are being excavated everywhere along the north coast, it's unsustainable and must be controlled.

Current regulations, or lack of, have ensured that rivers and creeks across the country are being subjected to extreme stress during periods of low rainfall, to the detriment of other water users and the environment that sustains us all.

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Harvestable rights – some background.

The Clarence Environment Centre, among others, has long held concerns about the unregulated nature of farming operations in general, and the burgeoning intensive horticultural industry in particular. In the past we have highlighted four main issues, land clearing, water use, plastic pollution, and pesticide run-off. But first, some history.

We began to express concerns about practices being perpetrated by those engaged in the blueberry industry as far back as 2007, urging ministers and regulatory bodies to impose **regulations that would require the lodging of a development application and water management plan. After all, in many cases these developments were transforming bushland into a 'sea' of plastic.**

No one in the government supported the introduction of any such measures, although individuals within those agencies admitted, unofficially, that there was a problem. The official reasons given included the nonsensical comment from the Primary Industries' minister at the time, who stated he was not in favour of regulations, because their imposition ***"might encourage non-compliance"***!

Eventually however, the complaints from the public became so loud and varied, that the Inter-agency Blueberry Advisory Committee was formed in about 2016. Of course, because there were few regulations, that Committee had no enforcement powers, However, by 2017 the committee had reported widespread illegal land-clearing, including repeat offenders, and the conclusion that ***"growers are prepared to pay fines as a business cost"***. Complaints about excessive water use, excessive pesticide use and spray drift; poor worker accommodation and site safety, along with observations that erosion control was virtually non-existent, were also reported by the committee.

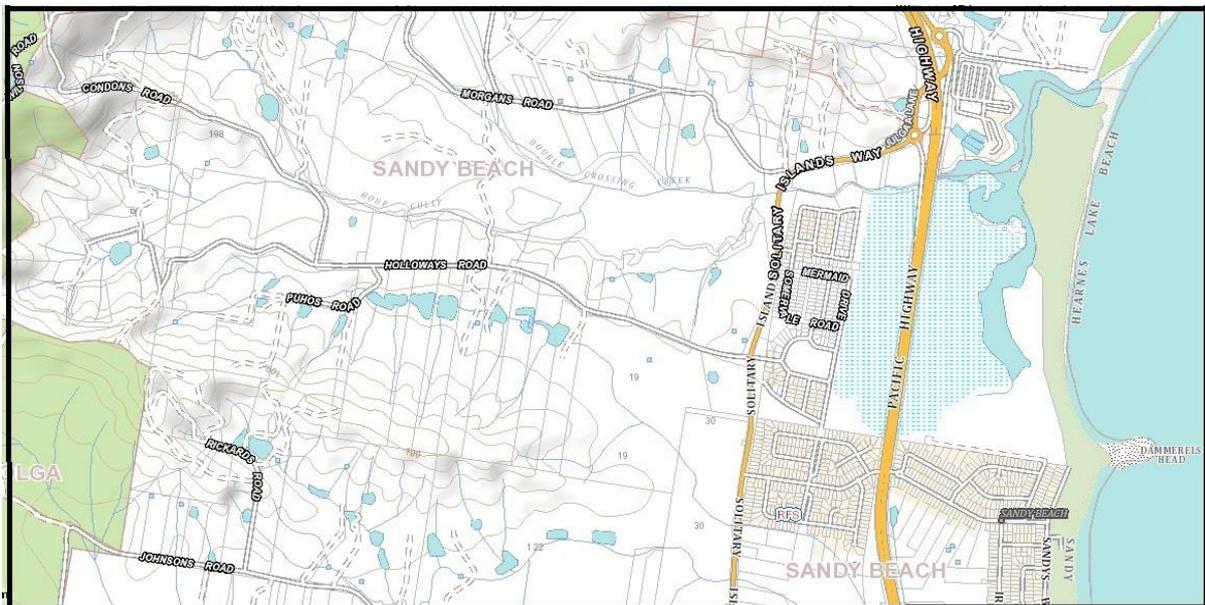
Incredibly, none of this appears to have rung alarm bells with those councils and agencies that should have had concerns about water quality. Reports of excessive nutrient and pesticide run-off into Coffs Harbour's creeks, released by Southern Cross University, have not resulted in any real preventative action. Even more surprising is that the current abuse of "harvestable rights" by the industry, as revealed by the EPA, receives no mention at all in the recently released Regional Draft Water Strategies. Those EPA reports, following a long-overdue compliance blitz on water use by blueberry farmers in the Coffs Harbour area, found that close to 90% of the properties they had investigated, were non-compliant, which proves our point, and it is reasonable to assume that the same applies to the rest of the North and Mid North Coast Regions.

How water theft occurs

Under current laws, dams large enough to contain a property's harvestable rights can be constructed on 1st and 2nd order streams without approval but, as there has been little or no checking to ensure dam sizes are not excessive, their capacity is frequently far greater than officially allowed (see latest EPA report on issues found near Coffs Harbour). When filled, of course, it is difficult to determine exactly how much water is contained in a dam, so many of these breaches go undetected.

Then there's the matter of over extraction when water taken from a dam and then replenished by more inflow. For example, a dam can be built at a point where it collects all water run-off from that property. As there is currently no metering requirement, that water can be pumped out of the dam for irrigation on a continuous basis for the entire year, potentially using 100% of the property's run-off, and nobody would be any the wiser. There is even the potential for a dam to be not only collecting water from that property, but from properties upstream. As well, because water collected as a 'harvestable right' is then owned by the property owner, those lucky landowners can also sell any surplus water to those less fortunate. Again, this is made possible because no meters are required, and nobody is checking!

Of course, identifying the illegal activities of individual property owners does not solve the overall problem, which is the cumulative over-use of water. The very unregulated nature of this industry ensures that the cumulative impact on creek and river flows is never considered, much less calculated.



The above image of a blueberry growing hotspot on the edge of urban Sandy Beach, north of Coffs Harbour, clearly illustrates the problem. There are over 50 dams in this picture, built on every available first and second order stream, ensuring no flows occur in the third order streams except during heavy rainfall events. **And nobody appears to be concerned!** There are calls from some landowners in coastal areas of NSW to be allowed to 'harvest', and then own, 100% of the water that falls on their property, as is currently allowed in inland NSW, west of the Great Dividing Range.

In our opinion that inland 100% harvesting allowance is ludicrous. It stands to reason that, if every landowner collected 100% of the water falling on their land, there would be no water left in the rivers, and that is exactly what is currently happening to the Murray Darling River system.

Thanks to the government's reluctance to regulate the intensive horticulture industry, and their complete failure to monitor compliance (until recently) with those few regulations that are in place, anecdotal evidence suggests that the same situation is now occurring along rivers in coastal districts.

This is acknowledged in the discussion paper which states, *“increasing the volume of water intercepted under harvestable rights would reduce the volume of water reaching rivers. This would reduce water access and availability for downstream users in dry years by prolonging cease-to-pump periods”* It also identified the obvious conclusion that, *“the effects of either a higher harvestable rights percentage or allowing dams on third-order streams would be greater in dry years than in average years”*.

The case against increasing Harvestable rights (environmental & social impacts)

After reading the Discussion Paper, we can be forgiven for wondering why the Department is persisting with this review. Apart from the simplistic claim that the more and bigger the dams are, the less impact there will be from flooding, the only benefit identified was: *“A larger harvestable right could benefit individual enterprises that would like to access more water than they can through existing means”*.

On the flip side, the Discussion Paper acknowledges that: *“In drier catchments, it is likely that increasing the harvestable rights percentage would reduce inflows into other farm dams and downstream flows”*, and *“dams on third-order streams would reduce low flows and increase the frequency and duration of cease-to-pump days, which would affect the environment and may affect other water users.”* **How could it not impact on other water users if cease to pump days are increased?**

A recent television news story featured the Minister expressing strong support for dairy farmers on the Dorrigo Plateau who were arguing the case for increasing dam sizes and numbers to triple the amount of water they would be allowed to capture on their farms, so they don't have to pay for it like every other water-using industry.

The Dorrigo Plateau is the source of drinking water for hundreds of thousands of people in the Coffs – Clarence districts, along with the Bellingen, Nambucca, and Hastings catchments, not to mention a number of Tablelands' communities. However, the Minister chooses to support a very small section of the community, who use much of that water to wash excrement from their dairies using high pressure hoses. **We believe the dairy industry, like any other, should pay for the water it uses.**

The Plateau is arguably one of the wettest areas in NSW, which ensures that holding ponds that are supposed to retain dairy excrement, will overflow from time to time directly into the drinking water of the vast majority of the region's residents, just another matter that should be raising concerns with regulatory authorities.

The Discussion Paper also identifies that: *“As the harvestable rights percentage and uptake of this right increase, the number and duration of freshes decrease”*, these are the rapid rises in water flows that are crucial to the environmental health of all creek and river systems, as the Paper rightfully identified, explaining: *“Freshes are ecologically important, as they help maintain the river channel and riparian vegetation, transport sediment, nutrients and organic carbon downstream, and increase dissolved oxygen and break up stratification of pools”*.

Freshes are also crucial to the viability of downstream fishing industries, a fact once again identified in the Discussion Paper, explaining: *“The Biodiversity Conservation Act 2016 and Fisheries Management Act 1994 identify changes to natural flow regimes, and structures and mechanisms that alter natural flow regimes, as key threatening processes to rivers and fish habitat. The New South Wales Marine Estate Threat and Risk Assessment Report has also shown that reduced freshwater flows are a moderate threat to fish and fish habitat.”*

Presumably, the greater reduction of water flow ‘freshes’, the greater the threat to river health and viability of commercial and recreational fishing. If harvestable rights are increased this would be yet another clear example of economic considerations taking precedence over environmental and social interests.

Water quality

Water quality always takes a hit when large quantities of water, that should be making its way downstream, fails to even reach the rivers, because it’s been diverted into farm dams and irrigation channels. Those responsible for capturing that water are invariably responsible for creating pollution. Farming and mining are the worst offenders, with cultivation from cropping losing millions of tonnes of topsoil through erosion every year, silting up rivers, and turning clear running streams into muddy drains. This impact is further exacerbated by chemical and effluent runoff, with the Great Barrier Reef being the most recent example.

We are told that mining companies are allowed to retain 100% of the water that falls on their land under provisions to minimise the chance of toxic waste escaping off site. Mining has a terrible record of causing environmental disasters around the world, and Australia is not immune. Despite this ever-present threat of river contamination, our local regulators persist in allowing mining exploration to occur, even in urban drinking water catchments like the Nymboida River which supplies drinking water to the Coffs Harbour, Clarence Valley region stretching from Iluka in the north to Boambee in the south.

The lower the stream flows are, the higher the potential for pollution, and the lower the water quality, so it stands to reason that we should not be allowing any more water to be diverted away from river systems. **Not only should more dams and a higher percentage of run-off be allowed to be captured, but there needs to be a far greater level of compliance monitoring and enforcement. Metres should be required on all pumps.**

The Bushfire prevention ‘red-herring’

The 2019-20 bushfires highlighted a lack of available water to combat fires in many areas. Now, landowners are using this argument to support their demands to be able to capture and store more water.

The reality is that, even if more farm dams were built, there would still be no water in them during drought. Dorrigo's dairy farmers admitted they had had to buy water once their dams were depleted. The building of another dam would simply reduce their need to purchase water, and there is no way they would retain a full dam for emergency fire-fighting purposes! Surprisingly, they appear to have successfully duped the Minister into believing them, as evidenced by her support, on national television, for more dams for the dairy industry.

We are aware of one landowner who had built a huge dam for a planned blueberry operation near Grafton, but had yet to plant any blueberries. The 2019 drought hit, and the owner sold, or maybe gave, all that water to other orchardists. Certainly, there was no water left in that dam to combat the bushfires that erupted at that time.

Climate change

This brings us to the environmental impacts resulting in less water in our rivers, and here we have to acknowledge the impacts climate change is having on our natural ecosystems. There is little doubt that the biodiversity declines that are reported daily seem, have been greatly exacerbated by our long-term mismanagement of those systems. Land-clearing, over-logging, draining of wetlands, all have contributed to a drier, more flammable landscape. Creeks and rivers, and even smaller drainage lines, support the growth of rainforest species that are fire resistant, historically providing regular natural firebreaks across the landscape, against all but the most severe fires.

We have failed, and are still failing to protect those features, and even last year, the NSW Government legislated to reduce the buffer zones around those drainage features to allow logging to occur.

Now, the government is considering allowing landowner to capture more water, and dam 3rd order streams, a move that will ensure even more deadly bushfires in the future as the remaining vegetation bordering those waterways, dries out.

Water trading

We have already touched briefly on the issue of water trading, something we are strongly opposed to, as it provides those that can afford it, to buy up water rights and sell them to those that can afford to buy them. Right now, we understand, water can be owned and traded by people who don't even have a use for it, other than to make money!

We urge the Department of Planning to take action to stop water trading, and take over the complete management of water in this state, to ensure the equitable sharing of this critical resource.

We thank the Minister for the opportunity to comment, and trust ours will be taken seriously

Yours sincerely

John Edwards (Honorary Secretary)