

THE POLITICS AND FAST-TRACKING OF PARADISE DAM: A SYNOPSIS

Queensland Conservation Council (QCC) – 17th October 2001

1. Background to Paradise Dam:

- 11th December 2000

The Queensland Government finalised the Water Resource Plan for the Burnett Basin allowing an additional 170,000 Megalitres (ML) to be made available from the Burnett River system. This additional water facilitates the potential development of the controversial Paradise Dam at a maximum capacity of 300,000 ML¹. There are already over 30 major dams and weirs constricting rivers throughout the Burnett Basin. If built, Paradise Dam will turn the Lower Burnett River into a lake system with more than 70% of the fresh water being impounded.

The Water Resource Planning process for the Burnett clearly showed that the additional allocation of water from the river will result in environmental flow targets not being achieved. Nearly all the water made available from the proposed dam will go specifically to sugarcane farmers in Bundaberg. This will occur to the detriment of water users in the central to upper Burnett River catchment.

Failing to ensure environmental flows renders the dam unsustainable and thereby, in QCC'S opinion, contravenes the *Water Act 2000 (Qld)* and Queensland's commitments under the Water Resource Policy of the Council of Australian Governments Agreement (CoAG) 1994.

The QCC contends that the Water Resource Plan for the Burnett fails to conform to the definition of '*sustainable management*' as defined under the *Water Act 2000* (s10).

Under the Act, sustainable management is management that:

- allows for the allocation and use of water for the physical, economic and social well being of the people of Queensland and Australia within limits that can be sustained indefinitely;
- protects the biological diversity and health of natural ecosystems; and
- contributes to a list of 9 actions (s10(2)(c)), including economic development within the principles of Ecologically Sustainable Development (ESD) (s11).

By failing to meet the identified environmental flow targets the Water Resource Plan will not result in the protection of biodiversity and the health of

¹ NB: 1 ML is equivalent to the volume of an Olympic-size swimming pool; 500,000 ML is the volume of Sydney Harbour

natural ecosystems. The plan also fails to comply with a number of the principles of ESD. Specifically, it fails to recognise intergenerational equity, fails to implement the precautionary principle, fails to fundamentally consider the conservation of biological diversity and fails to integrate both long-term and short-term economic, environmental, social and equitable considerations.

Under COAG, all proposed water developments must be both ecologically sustainable and economically viable. The Federal Government has the power to withhold substantial National Competition Payments from States that fail to uphold their commitments under COAG. A precedent of this occurred in 1999 when \$15 million was withheld from Queensland because a dam proposal in the south-west of the State was unsustainable.

- 24th January 2001

Peter Beattie announced *\$200 million dam to go ahead*². This decision was announced as an ALP election commitment on the first official day of the Queensland election campaign. At that time, the electorate of Bundaberg was held by a margin of less than 1% by Labor MP Nita Cunningham. In the preceding weeks, the Opposition had already announced their commitment to building Paradise Dam and other proposed water infrastructure along the Burnett River, placing pressure on the ALP to respond.

Paradise Dam and future water security were believed to be a primary issue for voters in this electorate.

2. Freedom of Information - Key Documents Withheld:

- 12th January 2001

The QCC, through the Environmental Defenders Office - Qld, lodged an FOI request with Queensland Treasury seeking any documentation relating to the economic viability of water allocation scenarios for the Burnett Basin as a part of the Water Resource Planning process for that region.

- 12th March 2001

QCC received the first ruling regarding our FOI request from Treasury exempting a document entitled *Treasury Comments on economic viability of water allocation scenarios for the Burnett Basin*. The ruling exempted the document using the Cabinet provisions under section 36(1)(e) of the *FOI Act*, ie that the disclosure of the document would *involve the disclosure of any consideration of Cabinet or could otherwise prejudice the confidentiality of Cabinet considerations or operations*.

- 5th April 2001

QCC lodged an Internal Review of the decision to exempt this document on

² The Hon. Peter Beattie, Queensland Premier, Media Statement, 24th January 2001 .

the grounds that there had been an error in interpretation of section 36(1)(e) and that the discretion to release the document was incorrectly exercised by the original decision maker.

Through the EDO-Qld, QCC argued that the document did not fall within either limb of the section 36(1)(e) exemption. QCC maintained that disclosure of the document is a matter of public importance. Further, we were concerned that the decision to include the document as part of a Cabinet submission occurred after our application for access was made. For these reasons, QCC argued that discretion should be made in favour of releasing the document.

- 23rd April 2001

QCC received the Internal Review decision from Treasury. This decision varied the original decision to now exempt the document as having been *submitted to Cabinet* under section 36(1)(a) of the Act.

- 20th June 2001

QCC lodged a request for External Review of the case with the Information Commissioner. We undertook the request for External Review convinced that the disclosure of this document was a matter of public importance for a number of reasons:

1. Given the Queensland Government's commitment to support the Paradise Dam proposal, it is QCC'S opinion that all information relating to the economic viability of this decision should be made publicly available for consideration and all decision-making processes involving such information should be transparent; and
2. We were concerned that the decision to include the document as a part of a Cabinet submission occurred after our original FOI application had been lodged, suggesting that the decision to exempt the documents had occurred because of the contentious nature of its subject matter rather than any strict exemption under the legislation.

- 23rd July 2001

QCC received a statement from the Information Commissioner that it was their preliminary view that the Treasury's Internal Review decision be upheld and that our request for External Review therefore be withdrawn. Following the Information Commissioner's advice that retrospective submission to Cabinet does not impact upon the exemption decisions, we decided not to pursue the External Review.

The Information Commissioner had obtained documentation from Treasury that showed that the sought document had been submitted to the Cabinet Budget Review Committee on the 18th April 2001.

Therefore the document had not gone to Cabinet until three months after our initial FOI request had been lodged with Treasury, over one month after we had received the initial decision by Treasury to exempt

the document under cabinet provisions of the legislation and only three working days before we received Treasury's Internal Review decision.

Considering the significance of the potential social, economic and ecological impacts of the Paradise Dam proposal, the QCC believes that the document *Treasury Comments on economic viability of water allocation scenarios for the Burnett Basin* should have been released under the public interest provisions of the FOI legislation, and should still be released.

3. Environmental Impact Assessment - Key Documents Withheld:

- 15th May 2001

Tom Barton, Minister for State Development, announced that Paradise Dam *will be built*³ at the same time as introducing new legislation to specifically 'fast-track' the Environmental Impact Statement (EIS) for both the dam and the other five major weir proposals in the Burnett Basin. The *Water Infrastructure Development (Burnett Basin) Act 2001* also allowed for a new Government-owned company, Burnett Water Pty Ltd, to be established to oversee the Environmental Impact Assessment for the dam. One of the two Directors appointed to the Board of Burnett Water is Rowena McNally, Sugar Industry's Commissioner and Chairperson of the Sugar Industry Authority.

On announcing the new legislation, Mr Barton noted that *if the normal EIS process was followed for the water infrastructure... it would have taken far too long for the Government's election commitment.*

QCC is very concerned that introduction of this legislation intended to fast-track developments on the Burnett River irrespective of the environmental damage they may cause and despite the serious concerns that the community is expressing, rendering the EIS process a farce.

- 7th September 2001 - Draft EIS Released

Less than 4 months after the *Water Infrastructure Development (Burnett Basin) Act 2001* was introduced, Burnett Water released the Draft Environmental Impact Statements (EIS) for Paradise Dam and two other major weir developments proposed for the Burnett River. The public were given less than 20 working days to respond to all three EIS documents (submission period closed on the 4th October 2001).

The Draft EIS failed to consider key documents on the potential impacts of Paradise Dam. Further, key documents referred to in the Draft report have not been publicly released. These documents include:

- Technical Advisory Panel, December 2001. *Burnett Basin WAMP Ecological Implications of Draft WAMP Scenarios* - this report concluded that *very major impacts are likely to arise* should Paradise Dam and the other weir proposals proceed; **not considered**

³ Tom Barton MP, Minister for State Development, Media Statement, 15th May 2001 .

- Brooks, S.G. & Kind, P. 2001. *Ecology and Demographies of Lungfish (Neoceratodus forsteri) and General Fish Communities in the Burnett River, Queensland with Reference to the Impacts of Walla Weir and Future Water Infrastructure Development. Draft Lungfish Scientific Report. Queensland Department of Primary Industries - not publicly released;*
- Queensland Treasury, 2000. *Treasury Comments on Economic Viability of Water Allocation Scenarios for the Burnett Basin - not considered nor publicly released;*
- Boardman, N.K. September 2001. *Ecological Studies and Research in the Burnett Basin Associated with Walla Weir - not considered nor publicly released.*

4. Federal Election Context:

- Under Federal environmental legislation, the Federal Government will make the final decision on whether Paradise Dam will proceed or not. The QCC is concerned that the Federal Government may approve Paradise Dam prior to the election in an attempt to secure votes from the sugar industry stronghold in Bundaberg.
- The Burnett River region relevant to the Paradise Dam proposal encompasses two Federal electorates - Hinkler and Wide Bay. Both seats are marginal:
 - Hinkler is held by 0.34% by National Party MP, Paul Neville
 - Wide Bay is held by less than 5% by National Party Minister, Warren Truss.

Bundaberg sits within Hinkler whilst the central to upper Burnett catchment falls within Wide Bay. Paradise Dam proponents have been actively lobbying Paul Neville to ensure Federal Government support for the dam. In a letter circulated to all Hinkler voters, Mr Neville espouses: *Locally the two issues are water and industry. I was able to take the proponents of five water storages on the Burnett River to meet with Environment Minister Robert Hill - to have him clear obstacles to progress on the Paradise Dam...*

In regards to Paradise Dam, Senator Hill has previously stated that the Federal Government *would only support a dam that was not going to result in significant environmental damage and that it is also in the national interest to learn from the experiences of the past. Damming in inappropriate places or in unsustainable circumstances leads to significant economic degradation that has to be paid for ultimately.*⁴

- Paradise Dam has been declared a *controlled action* under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), meaning that

⁴ Senator Hill's response to a Question without Notice, Thursday 29th March 2001.

it must gain Federal approval before proceeding. Queensland's *State Development Public Works Organisation Act 1971* Environmental Impact Assessment process was accredited as the Federal level of assessment required for the dam. As mentioned previously, the QCC has major concerns regarding the failings of the EIS process that has been employed. We are concerned that the Federal Government will not give adequate consideration to such concerns before it makes a decision on Paradise Dam.

5. Conclusion:

The Queensland Government's own subordinate legislation (the Burnett Basin Water Resource Plan) and all supposing scientific reports show that the water allocations needed from the Burnett River to develop Paradise Dam are not sustainable. The reluctance of the Queensland Government to release Treasury documentation into the economic viability of the dam raises significant questions about its viability. What is clear is that the Queensland Government is determined to build Paradise Dam regardless.