

Contact: Chris Delamont
[REDACTED]

Our ref: 9427436

Your ref: SUNWATER

Angela Moody
Productivity Commissioner and Chair
Queensland Productivity Commission
PO Box 12078
George Street Qld 4003

By Email: enquiry@qpc.qld.gov.au

Dear Ms Moody

Submission to Queensland Productivity Commission Inquiry - Impact of the Australian Government's 2025 Environment Protection Reforms on Queensland

This is a submission made by Sunwater Limited (Sunwater) to the Commission's inquiry on the impact of the Australian Government's 2025 environment protection reforms on Queensland.

Sunwater is the Queensland Government-owned corporation responsible for the management and delivery of bulk water infrastructure and services across regional Queensland. Its core functions include the ownership, operation and maintenance of major water assets such as dams and weirs, irrigation distribution networks, and bulk water supply systems supporting agriculture, mining, energy, industry, and selected urban communities.

Sunwater welcomes the opportunity to make this submission on a matter of significance to the environmental, social and economic prosperity of the State.

Overview

Since its commencement in 2000, the need for referral and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) has been the primary consideration for all infrastructure projects in the State.

Sunwater is the holder a number of EPBC Act approvals for pipelines, dams, weirs and ancillary infrastructure and the proponent for a number of projects currently subject to assessment (and therefore subject to transitional arrangements as the reforms are progressively implemented).

Sunwater is supportive of strong environmental protection processes at both the federal and state levels in connection with the provision of water management infrastructure. Compliance with federal environmental legislation imposes significant financial costs on proponents. As a provider of essential water supply infrastructure that delivers important social and economic benefits to Queensland communities, Sunwater considers it critical that regulatory processes remain efficient, proportionate and certain.

The proposed reforms to the EPBC Act are comprehensive. This level of reform will inevitably create uncertainty and increase costs as the new processes, mechanisms and policy framework are implemented. Therefore, it is important that federal and state governments work together to streamline the implementation of the reforms, by providing necessary support to industry, including explanatory material to aid industry's understanding of the reforms and by making any necessary regulatory changes to facilitate the transition. The EPBC reforms must enable Sunwater to deliver water for prosperity for regional Queensland by protecting environmental values in a way that is practical and proportionate. It should not unnecessarily

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002

ACN: 131 034 985

telephone: [REDACTED]

email: [REDACTED]

facsimile: [REDACTED]

sunwater.com.au

increase the cost of infrastructure delivery (which are borne by Sunwater's customers or government) or add to the complexity of operating essential water infrastructure that many communities rely on for their economic wellbeing.

Key outcomes sought

It is Sunwater's submission that there are several key outcomes which the reforms should deliver, including:

- a bilateral agreement which allows projects, particularly essential infrastructure projects, to follow a single pathway for assessment and approval at the federal and state levels
- a workable offsets framework that aligns federal and state requirements, increases flexibility in offset delivery and maintenance, provides for an agreed legally secured mechanism for land-based offsets and provides clear implementation guidance
- greater certainty at the approval stage, with approvals which are aligned with and proportionate to project risk, support flexible delivery mechanisms and do not require post-approval re-work
- a shift from process compliance to measurable environmental outcomes with financially feasible, and operationally practical approval conditions
- clear, expedited approval pathways for critical water infrastructure that properly weigh economic and community benefits alongside environmental impacts, with approval conditions that are proportionate, outcomes-focused, and reflective of the essential service these projects provide.

National Environmental Standards (NES)

The requirement for consistency with NES permeates the reforms, from the making of documents to the approval of actions.

An NES must prescribe outcomes or objectives and may prescribe parameters within our principles by which an outcome or objective is to be achieved and processes or actions to be followed or taken in achieving an outcome or object.

NES have the potential to be used to provide clear and consistent guidance on information requirements and greater consistency and accountability in decision making.

The major challenge will be to prepare for NES that have application in diverse settings and the flexibility to allow outcomes and objectives to be achieved in these different settings. By way of example, Sunwater is often required to navigate federal environmental constraints in highly modified and regulated catchments and environments with existing water infrastructure footprints.

It is important that when preparing NES, the outcomes and objectives are not subsumed by inflexible parameters, processes and actions.

Bilateral agreement

A key issue in relation to improved process efficiency and cost reduction is the elimination of duplication.

The need for proponents to follow parallel processes and comply with similar assessment criteria, or to follow processes which are not fully integrated into a single pathway is a frequent problem with the current system.

A good example of this is Sunwater's Rookwood Weir (Managibei Gamu), where the project required engagement across multiple regulatory frameworks, resulting in repeated assessments and assessment timeframes, including negotiating management plans during the weir construction.

The ability for the federal and state governments to enter an approval bilateral is welcomed and an approval bilateral should be pursued as a matter of urgency. Until an approval bilateral is agreed, the immediate focus should be on replacing the current assessment bilateral with a new bilateral assessment (albeit one

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002

ACN: 131 034 985

telephone:

email:

facsimile:

sunwater.com.au

that is improved, as discussed below), which reflects the new assessment criteria. The work that needs to be done to agree to a new bilateral assessment will also inform the preparation of a future approval bilateral.

In considering a new assessment bilateral, there is the opportunity to expand the scope of the bilateral beyond the processes under the *Environmental Protection Act 1994* and the *State Development and Public Works Organisation Act 1971*, which currently only apply to resources projects and coordinated projects.

Consideration should be given to accrediting other processes, such as the Ministerial infrastructure designation (MID) process under the *Planning Act 2016 (Planning Act)*. The MID process offers an alternative to the development application and assessment process under the Planning Act for many infrastructure assets (including water management infrastructure) and is an appropriate process to be accredited.

The accreditation of state processes, whether under an assessment or approval bilateral, will require legislative amendments to state processes to require the preparation of a report addressing matters of national environmental significance (MNES) to satisfy the requirements of the EPBC Act (particularly the new requirements for consistency with NES, avoiding unacceptable impacts and meeting the net gain test). Given the extensive timeframes involved in legislative amendment, appropriate levels of resourcing would be required by the states for legislative amendments to facilitate the making of a bilateral agreement.

Assessment Processes

The reforms have resulted in changes to the assessment processes under the EPBC Act, with the introduction of streamlined assessment and the abolition of assessment on information included in the referral and the public environment report.

Streamlined assessment is a welcome addition to the assessment processes for low-risk activities. It introduces a new streamlined assessment process to replace three older pathways targeting a 30 business day timeframe for approval decisions. The abolition of the public environment report is of concern as this process provided an appropriate level of assessment for many projects that required more rigorous assessment than assessment on preliminary documentation but less rigorous assessment than an environmental impact assessment.

In terms of assessment processes, Sunwater submits that there are certain benchmarks that drive assessment efficiency and should be an essential component of the reforms and federal/state cooperation. These include:

- strengthening early engagement pathways
- limiting the front loading of environmental requirements (e.g. expanded baseline studies and more complex impact assessments), all of which have the effect of extending pre-approval timeframes and increasing upfront project costs
- establishing thresholds between new actions and actions which comprise maintenance and minor upgrades
- maintaining predictable approval timeframes
- focusing on environmental outcomes rather than procedural compliance by permitting flexible delivery and measurable outcomes
- proportionate and risk-based conditions, which limit the administrative burden post-approval
- the delivery of an offset within a realistic timeframe, in recognition of the complexities of this process
- limiting the need for post-approval amendments, and updating of plans
- transparency and accountability in decision making.

The steps referred to above are procedural and cultural, rather than regulatory. The success of the reforms will depend on how the reforms are administered.

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002
ACN: 131 034 985

telephone:
email:
facsimile:
sunwater.com.au



The reforms will strengthen the compliance framework under the EPBC Act through the commencement of the National Environmental Protection Agency with its compliance function, increased penalties and new enforcement mechanisms (e.g. environment enforcement orders). Sunwater is supportive of a robust, effective compliance framework but emphasises the need for a practical and proportionate practical, proportionate and risk-based, particularly for public water infrastructure that underpins regional economies, food production and community water security.

The EPBC reforms must not replicate the existing compliance burden imposed on major water infrastructure development. Rookwood Weir demonstrates the problem, as a single asset that carries more than 500 interlocking legal obligations across multiple Commonwealth management plans, with overlapping triggers, event-based sampling and reporting requirements linked to variables such as water sales and flood event monitoring. These obligations are complex, costly and often extend well beyond the actual impact of the infrastructure operation.

In the case of the Lower Fitzroy Water Quality Management Plan, Sunwater is required to monitor catchment-wide health beyond the weir's impact area, collecting data which is potentially of greater use to government agencies and Natural Resource Management bodies (eg. Fitzroy Basin Association) than to managing residual project impacts. This requires Sunwater taking a broader role in system-wide compliance than it has traditionally taken, and requires specialist agronomists, ecologists and water quality scientists whose work sits outside the core business of supplying water.

Delivering this level of compliance requires substantial dedicated resourcing, none of which is required to physically operate the underlying water infrastructure. These costs are ultimately borne by Sunwater's customers or government, and they continue to grow as compliance expectations expand, often without any commensurate improvement in environmental outcome.

The new assessment criteria bring with them new challenges and uncertainties. It will be important for the federal government to ensure that new concepts are supported with sufficient explanatory guidance, and that the new NES and rulings assist proponents to understand the new assessment criteria. This will be particularly important for the meaning of new concepts such as 'unacceptable impacts' and 'net gain', where regulatory expectations must be clearly articulated up-front to provide certainty for project planning, assessment and ongoing compliance. Approval conditions must be practical, operationally deliverable and proportionate to actual risk, not shaped by research-oriented outcomes that leave proponents to resolve the logistical, financial and interdependency challenges after the fact.

Bioregional plans and strategic assessments

Bioregional plans will provide another streamlined approval process and should be advanced. Sunwater supports bioregional plans which provide for landscape scale protection of environmental values and recognition of developable land.

It is acknowledged that the preparation of bioregional plans will require a high degree of federal and state cooperation and a commitment of significant resources. For this reason, they need to be done at an appropriate scale and should be used to support critical community infrastructure in priority to other development.

It is also important that if projects are supported by bioregional plans, that state legislation is amended to either not apply, apply with modifications or provide a fast-track pathway for approval. The benefits of bioregional planning will be lost if, at a state level, the development supported by bioregional plans are not permitted due to state level zoning, overlays and other restrictions.

The investigation of strategic assessments is also supported, although it is recognised that these assessments, usually being at a larger scale, will require significant commitment. While bioregional plans should be a medium-term aspiration, it is recognised that strategic assessments are more a long-term outcome.

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002

ACN: 131 034 985

telephone:

email:

facsimile:

sunwater.com.au

Net gain, environmental offsets and restoration contributions

Suitable dam and weir sites are rare combinations of geology, climate and terrain. Offsets are an essential part of developing water resource security as there is usually no opportunity to completely avoid environmental impacts by changing location. All future major pipeline and impoundment EPBC approvals are expected to trigger EPBC Act offsets

The offsets for dam and weir development are typically large, complex and expensive as they include installation of fishways, water quality offsets, management of aquatic species and restoration of inundated riparian habitats in Great Barrier Reef catchments. High offset and monitoring costs contribute to overall project costs, with some impacts potentially flowing through to water users and project feasibility considerations. Ultimately, this leads to a risk of Sunwater not being able to provide safe, affordable, reliable and sustainable water to Queenslanders. The offsets process must strike a genuine balance that appropriately weighs environmental outcomes against the substantial economic and social benefits that critical water infrastructure delivers to communities, industry and the broader economy, and recognising that every additional dollar of offset cost is a dollar drawn from taxpayers and water users who rely on these essential services.

Sunwater acknowledges the intent to achieve a 'net gain' in environmental outcomes. It must be noted; this may be difficult in terms of land-based offsets in regulated river systems, highly modified landscapes and highly productive parts of the landscape where land is not readily available. Also, the positive environmental impact of dams is not accounted for, particularly for migratory wetland bird species and where impoundments serve as drought refugia for threatened aquatic species.

The key issues for Sunwater with respect to offsets are:

- the high and increasing cost of environmental offsets when developing critical water infrastructure
- increased complexity in offset delivery in terms of dealings with landowners and the mechanisms used to secure offsets
- securing suitable offset sites takes time and is required before works commence, which means that offset development will need funding before final construction funding
- ongoing compliance obligations, including specialist monitoring costs
- the lack of recognition of the large areas of regenerated habitat on Sunwater's land created through historic catchment stewardship.

The offset scheme under the reforms provides potential opportunities for Sunwater, including:

- Sunwater's land resources can host offsets and provide biodiversity certificates
- the acknowledgement of past land stewardship and allowing areas of natural regeneration that have occurred since 1999 to be used for offsets
- ensuring areas of vegetation mapped as Category X under the *Vegetation Management Act 1999* are available for use of offsets under the EPBC Act
- clear no go areas.

In this context, Sunwater has identified various areas which would benefit from cooperation between the federal and state governments, and which will require further work, including:

- standardising offset triggers and requirements so there is one offset management plan for both MNES and MSES
- aligning the federal and state offset calculators so that there is one consistent restoration contribution/financial offset mechanism

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002

ACN: 131 034 985

telephone:

email:

facsimile:

sunwater.com.au

- simplifying advanced offsets collocation, registration and management processes
- clarifying how the biodiversity credit market will function
- consistently dealing with category X vegetation at the federal and state levels
- allowing vegetation that has regrown since 1999 to be used as advanced offsets
- increasing the use of indirect offsets, particularly for aquatic impacts
- simplifying the legal security mechanism
- increased flexibility in terms of timing to secure a land-based offset
- providing clear and practical guidance on achieving 'net gain'.

It is noted that the state has recently published *A fresh start for Queensland's Environmental Offsets Framework* and called for public feedback. Sunwater is generally supportive of the many initiatives proposed in this discussion paper. The state's review of its legislation, regulation and policy provide the ideal opportunity for the state and federal governments to work together to improve consistency, reduce duplication and find commonality in terms of offset delivery mechanisms.

Vegetation clearing

The removal of the lawful continuous use exemption (Section 43B) is a matter of concern.

While we appreciate that this is not a matter within the control of the state, it is a consequence of the reforms and makes the need for a clear and streamlined process even more important.

The nature of Sunwater's operations and location of its assets in and around watercourses means that Sunwater is disproportionately impacted by the removal of the continuous use exemption.

Of particular concern is that essential asset maintenance or routine operational clearing works are now potentially captured by the EPBC Act requiring at a minimum self-assessment and potentially a full referral, assessment and approval. This will add cost and delays to essential and routine infrastructure maintenance works being completed in previously disturbed environments.

Transitional provisions

Sunwater submits that clear transitional arrangements are essential to minimise disruption to projects already underway.

The transitional provisions under the reform legislation are highly complex as the triggers for the application of provisions differ.

It is recommended that the federal and state governments work together to produce clear and understandable guides and flowcharts to assist proponents to understand when the reforms apply and when they do not apply. It is also recommended that the federal government be encouraged to release general guidance material about the reforms as soon as possible and prior to the provisions commencing.

Sunwater considers that the reforms must enable the continued delivery of water for prosperity across regional Queensland, recognising the essential role our assets play in supporting the communities that we serve and their ongoing economic wellbeing

Sunwater would be pleased to discuss any of the matters raised in this submission with the Commission. For all inquiries, please contact Chris Delamont, GM Environment on [REDACTED]

Yours sincerely,

[REDACTED]

David Hourigan
Interim Chief Executive Officer

address: Green Square North, Level 9, 515 St Pauls Terrace,
Fortitude Valley, Queensland 4006

post: PO Box 15536, City East, Queensland 4002

ACN: 131 034 985

telephone: [REDACTED]

email: [REDACTED]

facsimile: [REDACTED]

sunwater.com.au