



CLARENCE ENVIRONMENT CENTRE INC.



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Department of Planning and Environment

Submission to the **Draft North Coast Regional Water Strategy**

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, where water issues have been a recurring concern for as long as our organisation has existed.

Discussion

Currently, water quality is our greatest concern, seconded by the failure to effectively regulate water users, which has resulted in widespread water theft. Reading through the Consultation Paper to see what proposals are likely to be put in place to address these two issues, it was gratifying to see water quality identified as an issue in the Minister's introduction, and we were pleased to note that many of the major causes of the decline in water quality have been identified and listed for action.

Page 22 rightly identifies the decline in water quality as being caused by "*uncontrolled stock access*" and "*rainfall following bushfire*", along with a lack of soil conservation measures by intensive horticulture. However, another major contributor, the logging industry, and the abysmal management of state forests generally, receive no mention whatsoever. Poor erosion control standards that are applied to construction sites, road and other infrastructure construction, that also cause excessive erosion and water pollution, are likewise ignored.

We believe it is essential that all sources of water pollution be identified and addressed, with mandatory powers of enforcement, and appropriate penalties for non-compliance.

Impacts on water quality from forestry operations

The timber industry's activities across the Dorrigo Plateau, and most likely across other urban drinking water catchments in NSW, are having a highly negative impact on water quality. Pristine forests will filter water run-off to drinking water standard, but whenever the region experiences heavy rain, the water from the Nymboida River is unusable, sometimes for weeks, even months, on end. The turbidity that causes this problem is, to a large extent the direct result of activities carried out by Forestry Corporation.

These include their clear-felling of plantations, pine and hardwood (see image below).



This is the scene of the Clouds Creek state forest pine plantation, clear-felled and cultivated as far as the eye can see. This work was undertaken across drainage lines almost to the river itself, and the erosion potential is huge. This type of stupidity simply has to stop, and we see these regional water strategies as a conduit to stop these practices.

Forestry Corp's high intensity logging operations are almost as bad, with massive soil disturbance, and a mere 5m buffer along 1st order streams, and barely much wider down the catchment system, and no buffer at all if the drainage line or gully doesn't happen to be marked on the topographical map.

Native forest logging of state forests has been losing millions of dollars annually for 2 decades, so taxpayers are not only footing that bill to have their native forests trashed, they are also having their drinking water polluted in the process. Why is this even being allowed to continue?

As well, most, if not all, state forests in the Nymboida River catchment are leased out for cattle grazing, with cattle trampling creek banks and defecating in the waterways. Again, why is this allowed?

There are also grazing properties all around the Nymboida weir, which is the 'take-off' point for the Coffs – Clarence regional water supply. Few of the river and creek banks are fenced to prevent their cattle from accessing our drinking water.

Clearly, neither councils nor state government are showing any interest in protecting water quality to an acceptable degree. Again, we believe the strategy should identify these issues, and deal with them appropriately. Instead of simply trying to "encourage best practice", as is the case with most of the identified actions, regulators should be "ensuring" that best practice is followed across the board. If this requires government financial assistance to landowners, so be it!

Climate Change

It was gratifying to learn that the strategy is taking climate change predictions into account, something that was not evident in earlier drafts which, in our opinion, put too much trust in 5,000 years of historical data obtained from tree rings and ice cores. In reality, humankind has so changed the atmosphere over the past 250 years, that that data is now fully redundant.

Bushfire threat to water quality

The lack of consideration of the catastrophic erosion that was the direct result of the 2019-20 bushfires in our region, is particularly disappointing. The Strategy acknowledges that: “**These impacts** (deoxygenation and further release of nutrients (page 24)) **are particularly acute during rainfall events following bushfire**”, leading “**to increased river toxicity and fish deaths**”. However, the only other mention of bushfire, was the need for water to douse them, the impacts on farmers’ water troughs, and problems of turbidity impacting on filtration plants.

There must be actions to prevent fires erupting during catastrophic fire conditions, because a failure to do so will see the loss of entire ecosystems. We must do all in our power to prevent catastrophic fires, and it is not good enough to simply build resilience.

Population growth

The need for water strategies is to equitably share a scarce resource. However, there is no mention in the strategy about the primary driver of that need, population growth, or for that matter, the growth of industries such as intensive horticulture.

All the proposed actions in the Strategy have been put forward to solve water supply problems **generated by uncontrolled population growth**. It seems to us that developing a strategy that will be redundant within a decade because there is no regulation of growth, is ultimately an exercise in futility. It’s surprising therefore, that no consideration is given to capping that growth, or even regulating the Blueberry industry, for example, to require a water management plan be prepared explaining where their water would come from.

Right now, the authorities have no idea how many blueberry orchards there are in the region, how many more are planned, how much water they are using, or where that water is coming from! And that’s simply because the authorities refuse to impose regulations.

Given the current unsustainable global population growth is generally acknowledged as the greatest threat to planet Earth, shouldn’t this issue be considered as part of this strategy, and the planning process generally?

Threat to water resources from mining

Why is minerals exploration allowed in urban drinking water catchments? We are continually reminded of the dangers of water pollution from mining as year after year, more reports of disastrous accidents, polluted rivers, and even loss of life from mining mishaps are reported. Many of the minerals being mined are highly toxic or rely on toxic processes for their extraction. Yet, despite this, there is no restriction on minerals exploration in drinking water catchments here in Australia.

These threats are downplayed by our political masters, who assure us that these 3rd world incidents couldn’t happen here, where we have the most stringent safety requirements, consent conditions, and world’s best practice etc. etc. etc. Despite this, it is only 2 years since the ABC broke the story that toxic waste from the mothballed Baal Gammon copper mine in northern Queensland had leaked into the previously pristine Walsh River and Jamie Creek, south-west of Cairns, near the township of Watsonville. As a result, residents were told by the Queensland Government not to drink, swim in, or use the water. **Yes, it can happen here!**

As we see it, the risks are unacceptable, State Government fails to recognise its responsibility for ensuring safe drinking water. As it is, if a viable mineral resource is found, a mine will most likely be given approval, albeit with dozens of conditions which the politicians will then try to persuade us will ensure the operation is safe.

As we see it, mining in drinking water catchments is simply too risky, and mining leases need to be re-mapped across the whole of Australia to identify sensitive areas, drinking water catchments, heritage sites, and places of environmental significance, and scenic beauty, where mining simply should not occur, and declare them off-limits to mining and exploration. **However, there is no mention in the Strategy of the potential threat to water quality from mining, so there are no proposed actions to prevent it. Why is that?**

Regulatory failure

Past regulatory failure, is a widespread problem that is costing the environment dearly. Will this aspect improve with the development of actions under this strategy?

Intensive horticulture on the Mid North Coast is a case in question. Numerous complaints have been made by individuals and organisations (including the Clarence Environment Centre which began its campaign to have the industry regulated as far back as 2007), about the lack of regulation and compliance monitoring in relation to the industry. An inter-agency blueberry advisory committee was formed early on in response to the deluge of complaints on all aspects of the industry's operations'

That Committee had no powers to prosecute, merely to advise, and "encourage" best practice. However, that Committee noted widespread problems (Committee's minutes - 15th February 2017), from illegal land clearing and dam building, causing erosion and pollution of streams, to excessive and careless pesticide use, under-payment of workers, use of illegal overseas labour, to harassment and threats to neighbours. More significantly, they identified that many in the industry regarded fines as a cost of doing business, a clear case of regulatory failure. If just one orchardist, found to have illegally cleared land, had been ordered to rehabilitate that land, illegal clearing would be stopped overnight. Instead, they were prepared to pay the fine and continued in business.

In 2017, the Clarence Environment Centre forced one water extraction licence application to a Tribunal hearing in Grafton. The whole process took over a year during which time there was considerable consultation and official exchanging of evidence. However, at the very start of the hearing, a taxpayer-funded lawyer, brought in by the Grafton office of the then Water NSW, successfully prevented us from giving evidence. **We have never received any explanation as to why Water NSW was so keen to 'gag' us, but that was the level to which the agency went to ensure that no regulation was imposed, or there was any scrutiny of the industry. That, to us, was collusion.**

It was not until 2019, 12 years after the Clarence Environment Centre had first raised concerns, that State Government undertook a reported "blitz" on water use by horticulturalists in the Coffs Harbour region. Their media release claimed: "**Compliance with water take rules in the North Coast is a regulatory priority in response to public concern that has been received**". According to the Natural Resources Access Regulator (NRAR), during the first 2 stages of that "Blitz", in May 2019 and February 2020, their investigators visited 31 properties and found 28 to be allegedly non-compliant with NSW's water laws.

This finding that almost all orchardists in the area were flouting the law, and despite the industry having been warned beforehand about the proposed inspections, clearly shows their total disregard for regulations. In fact, 16 months after the first stage began, the third stage investigation is still finding breaches.

We find that it's remarkable that after all the tax-payer support and mentoring the industry has received over the past decade from agencies like Local Land Services, NRAR now reports it "***has been working with industry groups and stakeholders in the region to educate and improve compliance and attitudes to water laws, using industry newsletters, video and web-based conferencing***". Clearly, "encouraging best practice" has failed in this instance, but this Strategy repeatedly resorts to encouraging best practice to achieve the desired aims.

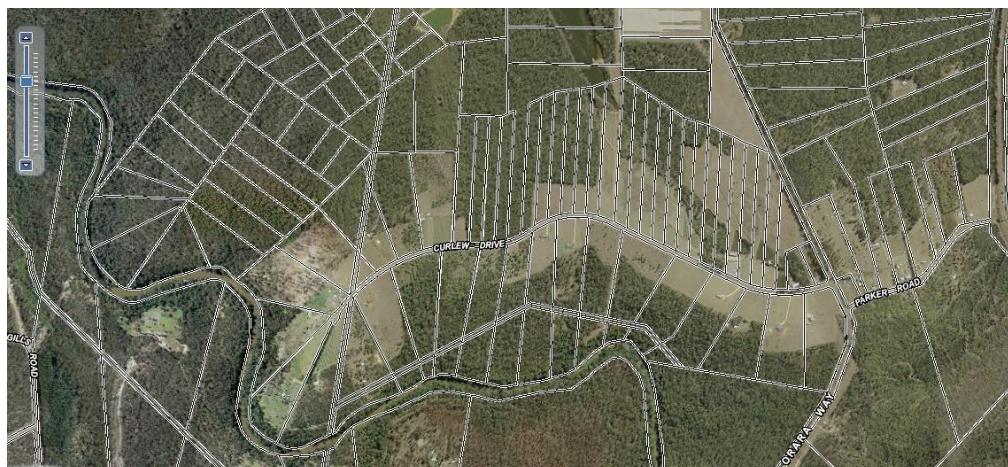
After 15 years of blatantly ignoring regulations, serious action needs to be taken against these serial offenders, yet governments at all levels are still refusing to require development applications or water management plans to be presented by the intensive horticulture industry for approval. As it is, they can take a bush block, clear it of vegetation, build dams and transform the entire forested countryside into a sea of plastic without the need for any approval whatsoever.

We have included this segment to highlight the reality of regulatory failure. The industry is destroying biodiversity, polluting waterways, and putting other industries and human health at risk, and they must be pulled into line. As stated earlier, water is a very precious commodity, and must be treated accordingly.

Other comments

- How can we have any faith in these new strategies when "enabling economic prosperity" is high on the list of objectives? If history has told us anything, it is that the moment "economic prosperity" is threatened, the environment will get 'screwed' as a first response. Hopefully, these new strategies will lead to a adequate protection for the environment.
- In our opinion the 16.7% of river length that the Draft Strategy claims is "in poor geomorphic condition", is massively understated. The Nymboida River, source of drinking water for the entire Coffs / Clarence region, has been unusable for storage in the Shannon Creek storage dam for months on end in recent years.
- The claim that: "*The condition of riparian (streambank) vegetation is generally low across the region, except in protected or forested areas*", is incorrect. Even forested areas are not immune to disturbance, courtesy of widespread unregulated activities on privately owned land, and regulatory breaches in state forests, and the damage caused by grazing leases, not to mention feral cattle, horses, deer and pigs.
- The comment: "*Competition for water during low flow periods is restricting access for landholders and industries and placing many of the region's waterways under stress*", is true. But this has been largely caused by past over-allocation, and a failure to enforce compliance, and recent increases in the allowed harvestable rights is making the situation even worse, particularly in dry times. **So why, given the acknowledgement that waterways are under stress, was the harvestable rights tripled?**

- The recognition of the fact that: “*Many of the region’s alluvial and coastal sand groundwater systems are highly connected to surface water flows and reductions in surface flows can affect recharge rates*” and the acknowledgement that: “*This impacts on both the health of groundwater dependent ecosystems and consumptive users of groundwater*”, should also have been sufficient evidence to refuse the recent threefold increase in harvestable rights. **So again, why were they increased?**
- The acknowledgement that: “*Very few pumps are metered, making it difficult to understand the extent of the problem and to properly manage water sharing among users*”, further supports our argument that there should be greater compliance monitoring. Without tamper proof meters, compliance cannot be monitored.
- We believe the claim that: “*Many landholders in coastal areas have sought the right to take and store more water during wet periods to improve their preparedness for dry periods*”, needs to be clarified. Existing dams collect water whenever there is run-off, and are generally full during wet periods, so there would be nowhere to store that additional water. This appears to be a sneaky way of getting permission to build more and/or larger dams. During a recent briefing, a scenario was put floated whereby a licence holder could exchange an entitlement to pump during low flows, for an entitlement to take five times as much water during high flows. Diagrams used to demonstrate this, talking about “diversion of river flows” into holding ponds, looked suspiciously like floodplain harvesting. **Any adoption of this type of scheme should be discounted in our opinion.**
- Concerns expressed in the Strategy about harvestable rights’ impacts “*on freshes and low flows in downstream rivers and creeks*”, should have been addressed **before** increases in harvestable rights were allowed. **How were these increases allowed before a strategy was formulated? Was there political pressure?**
- On Page 30 we read: “*Anecdotally, growth in water extraction for domestic and stock purposes under basic landholder rights – particularly resulting from the sub-division of rural residential land with waterway frontage – is also increasing competition for water at low flows*”. The following image of subdivisions along the Orara River at Kremnos dramatically demonstrates this. **It’s hardly anecdotal and should be taken seriously when considering dishing out water licences. A number of those subdivisions are already being used for intensive horticulture!**



- Typical of the supposed solutions is “*Action 2.7: Address catchment-based impacts of increased harvestable rights limits*”. A suggestion at the Information session we attended, that the increases in harvestable rights could be wound back in catchments that are already under stress, is welcomed, **but why weren’t the catchment-based impacts assessed BEFORE approving the increase?**
- The comments under the heading “*What we have heard so far*”, is the claim that: **“Protecting and enhancing the health of the region’s waterways, for example by maintaining natural flows and water quality, is a priority”**. We would like to ask that this be a primary objective in any future advancement of the strategy and any subsequent plans. This also applies to **“We need to better manage what we do on the land and how we use water to protect what we value in rivers, creeks, and groundwater systems”**.

We acknowledge that this Strategy is just that, a strategy not a plan. However, we would stress that and future plans to protect water quality, and equitable distribution of water, must go far beyond simply **supporting private landholders to adopt best practice land and water management practices.**

We thank the Department for this further opportunity to provide input

Yours sincerely

