AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

REPORT NO. 52 ON THE

WATER REFORM AND OTHER LEGISLATION AMENDMENT BILL 2014

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 11 September 2014 the Water Reform and Other Legislation Amendment Bill 2014 (the Bill) was introduced to Parliament.

The Bill was subsequently referred to the Agriculture, Resources and Environment Committee (the committee) with a report back date of 17 November 2014.

On 17 November 2014 the committee tabled its report no. 52 in relation to the Bill.

The Queensland Government response to recommendations made and clarification on points raised by the committee are provided below.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

The committee recommends that the Bill be passed, with consideration of the further recommendations in this report.

Government Response

The Government notes and thanks the committee for the recommendation.

Recommendation 2

The committee recommends consideration of an amendment to the Bill to include circumstances and events that are likely to impact the limits and features of a watercourse and riverine environment, which would trigger a review of the watercourse identification mapping.

Government Response

The Government thanks the committee for this recommendation and supports the policy intent of the recommendation.

The watercourse identification map will provide landholders certainty regarding water regulation, through an easily accessible and contemporary resource identifying the known extent of features, including watercourses and drainage features. The map will be regularly updated based on the best-available information about the extent of such features, incorporating consultation with relevant stakeholders. Changes to the physical nature of watercourses and other drainage features as a result of climatic or other circumstances can, through the routine technical assessments undertaken by departmental staff, lead to

validation or review of watercourse determinations and to the consequential update of the watercourse identification map.

The watercourse identification map will also identify designated watercourses which are watercourses within which there is no requirement for an entitlement to take or interfere with water. The Minister for Natural Resources and Mines will introduce an amendment to the Bill to ensure that this statutory authorisation to take or interfere with water from a designated watercourse can be limited by a water plan to ensure that flexible management arrangements can be implemented to respond to the climatic variability experienced in Queensland. The use of a water plan to provide this regulatory framework provides transparency and appropriate community consultation processes around the introduction of these limits.

The Water Regulation 2002 will establish the requirements for Ministerial reporting on each water plan. Under the regulation, these reports must include an assessment of the appropriateness of the limitations on statutory authorisations for taking and interfering with water, including limits on taking water from designated watercourses. These periodic reports will provide a trigger for the review of the management of watercourses, including determination or designation of watercourses and other drainage features.

Recommendation 3

The committee recommends that clause 68, new section 85 of the Bill be amended to provide that the chief executive may seek public submissions, as part of assessing whether to grant a water development option.

Government Response

The Government notes the committee's recommendation and advises that there are two mandatory requirements for public consultation during the environmental impact assessment process that provide for ample community input into the assessment and approvals process for a coordinated project. These are public consultation on a draft terms of reference for the assessment and at the release of a draft environmental impact statement.

Additionally, a water development option can only be granted under new section 85 for declared major water infrastructure projects having given consideration to competing demands for the resource (section 85(c)). Through this consideration, the committee's comments that the highest priority use of the resource be supported rather than a 'first in, first served' approach can be addressed administratively.

There are a number of ways that advice can be sought regarding the competing demands for the water without prescribing a submission process in primary legislation. For example, the Government recently called for registrations of interests for existing general reserves of unallocated water across Queensland. This was an administrative process, not a legislative one, but achieved the outcome of providing market information to the Government that will assist in setting priorities for unallocated water releases in the future.

Additionally, the Department of Natural Resources and Mines works closely with other State Government agencies in relation to emerging and large scale economic development drivers. For example, the Department of Agriculture, Fisheries and Forestry keeps the Department of Natural Resources and Mines informed about the potential for new irrigated agricultural precincts as has been the case with the Flinders and Gilbert catchments of the Gulf. The Department of Energy and Water Supply and the Department of State Development Infrastructure and Planning have kept the Department of Natural Resources

and Mines informed about emerging mining potential in the Galilee Basin and the water supplies needed to support the resources sector.

Should a process be required to identify competing demands beyond that able to be ascertained through existing networks, then a separate administrative process would be contemplated.

Recommendation 4

The committee recommends that references to 'wild river' in clause 68 of the Bill, including in new sections 220(h), 227(3), and 229(2) and (4), be updated consistent with the *Regional Planning Interests Act 2014* and consequent repealing of the *Wild Rivers Act 2005*.

Government Response

The Government notes and accepts the recommendation and the Minister for Natural Resources and Mines will be moving amendments during consideration in detail to remove the 'wild river' references in clause 68 of the Bill which were included in error.

Recommendation 5

The committee recommends that the department review the progress of voluntary negotiations to transition existing entitlements under special agreement Acts into the Water Act, after a reasonable time frame (for example, three years or similar).

Government Response

The Government notes and accepts the recommendation and will track progress in transitioning special agreement Act water rights on an ongoing basis. The Government is clear in its intent that it would like water rights in special agreement Acts to be fully transitioned into the water entitlement framework under the *Water Act 2000*. This intention will form the basis for any future discussions the Government has with companies in relation to their take or interference with water.

Recommendation 6

The committee recommends that the Bill be amended to universally require the preparation of an underground water impact assessment report or baseline assessment, as the basis for the introduction of make good arrangements. This necessitates the omission of exemptions proposed in the Bill with respect to existing mines, low risk activities (not yet defined), and bore trigger thresholds.

Government Response

The Government thanks the committee for its consideration of this issue; however the Government does not support this recommendation.

Except in a groundwater regulated area (where the commencement of dewatering would presently require an application for a water licence), under the reforms an existing mine will be exempt from a statutory requirement to prepare a baseline assessment plan and underground water impact report. However, safeguards are provided to ensure the reforms meet their objective of ensuring make good arrangements are made for all affected bores. Under clause 79 and clause 99 of the Bill, the chief executive may direct the tenure holder (including the holder of an existing tenure) to prepare an underground water impact report and/or a baseline assessment plan. In addition, if a mine is contributing to cumulative

impacts in an area, then the declaration of a cumulative management area that includes the mining tenure also triggers the preparation of an underground water impact report. Finally, the chief executive's existing power to direct that a bore assessment be conducted on an individual bore where it is considered the bore is affected (which triggers a requirement for a make good agreement) will be expanded to include situations where it is considered the bore is likely to be affected. It is considered that these measures allow a targeted approach that enables an underground water impact report and baseline assessment plan to be required, or an individual bore assessment conducted, where it is necessary to ensure that impacts are subject to make good arrangements, without creating unnecessary regulatory burden on established operations.

Implementation of Chapter 3 since its establishment in 2010 has demonstrated that exempting low risk tenures would enable a reduction in the regulatory burden while not lessening overall protection for underground water supplies. As a safeguard, the content of a regulation that lists low risk tenures will be developed in consultation with potentially affected stakeholders and will undergo any required regulatory impact assessment process.

Under the proposed Chapter 3 framework, baseline assessment plans and underground water impact reports are required for all petroleum tenures and for all new mining tenures that take associated water. It is the preparation of the underground water impact report which then determines the areas in which the water level is predicted to decline by more than the trigger threshold, and the requirement for tenure holders to conduct bore assessments. Trigger thresholds are not relevant to the requirement to prepare a baseline assessment plan or underground water impact report.

Recommendation 7

The committee recommends that the application of transitional provisions is limited to existing tenures upon commencement.

Government Response

The Government thanks the committee for its consideration of this issue; however Government does not support this recommendation.

Under clause 15 of the Bill, the transitional period (in which the right to take non-associated water continues) applies to all petroleum tenure holders. Under the proposed *Water Act 2000* section 1277, provision is made for a transitional process for requesting an authorisation. This process applies only during this period, and is available only to existing tenure holders and to holders of a tenure for which the application had been made before commencement.

New Authorities to Prospect (ATP) are granted in response to a call for tender process. Applicants typically compete on the basis of their proposed work program and are required to demonstrate technical and financial capability to deliver the work program. Tenders may also involve a cash bidding component. Before applying for a petroleum lease (PL), applicants must, among other things include a statement by a suitably qualified person that the proposed area contains commercial quantities of petroleum. Typically, in order to be in a position to apply for a PL, the prospective applicant would have made a substantial investment in exploration. Allowing the applicant for an ATP or PL to access the transitional process under 1277 recognises that by this stage, the investment has been made, and a tender process undertaken, on the basis of the current regulatory framework.

If the proposed s1277 was amended to be accessible only to existing tenures, the holder of a tenure granted shortly after commencement would be able to take non-associated water

without a licence or permit for 2 years (5 years in the Surat cumulative management area). However, to continue their operations beyond this time, they would need to apply for a licence or permit under the normal processes set out in Chapter 2 of the *Water Act 2000*, including public notification and appeal processes, and would be exposed to a risk that a permit or licence may not be granted. This is considered undesirable as it would undermine the investment and commitment expressed in making the ATP or PL application.

Companies who have not reached the stage of making an application by commencement would be exposed to this risk, however their projects are generally at an earlier stage where investment is lower and there is time to factor in the effect of the reforms into business risk assessment and planning.

Recommendation 8

The committee recommends that references in the *River Improvement Trust Act 1940* to the *Local Government Act 2009* be updated by adding a reference to the *City of Brisbane Act 2010* as appropriate.

Government Response

The Government supports this recommendation and the Minister for Natural Resources and Mines will move amendments to the Bill during consideration in detail to make the recommended changes.

Recommendation 9

The committee recommends that clause 2A(2)(b) be amended to replace '…subsection (1)(a) to (d).' with '…subsection (1)(a) to (e)' so that activity towards 'improving water quality and river system function in rivers and their catchments' is included within the functions of the area trusts. This committee considers that this may be a drafting error only.

Government Response

The Government supports this recommendation and the Minister for Natural Resources and Mines will move amendments to the Bill during consideration in detail to make the recommended changes.

Recommendation 10

The committee recommends that the department consider further discussion with local government to confirm the intent of clause 23, section 3(5), for the Minister to be able to make a submission of his own accord to establish, change or abolish a river improvement area.

Government Response

The Government thanks the committee for its recommendation and notes the committee's recommendation for further discussion with local governments.

Should the Government decide to make such a submission to establish, change or abolish a river improvement trust area, the Government would ensure that the relevant local governments were fully informed and consulted in relation to the Minister's intention.

Recommendation 11

The committee recommends that clause 24 of the Bill be amended to expressly provide for constituent local government(s) to retain powers to appoint local government representatives on a trust where there are more than two local government areas that make up a river improvement area. A new section 5(1)(b) could provide that these appointments would limited to a number agreed by the Minister and stated in the regulation establishing the trust. This may obviate the requirement for section (1A) to provide for an alternative process of nomination.

Government Response

The Government supports this recommendation and the Minister for Natural Resources and Mines will move amendments to the Bill during consideration in detail to make the recommended changes.

An amendment will be moved to the Bill to ensure that each relevant local government will have representation on a board as provided for in a regulation constituting a trust.

Recommendation 12

The committee recommends that amendment be made to the Explanatory Notes or relevant clauses/schedule 3 in the Bill for consistency, as to the updating of the term safety management plan in the *Petroleum and Gas (Production and Safety) Act 2004* with either the term 'safety management system' or 'safety and health management system'.

Government Response

The committee noted that there has been some harmonising of language across the *Coal Mining Safety and Health Act 1999* and the *Petroleum and Gas (Production and Safety) Act 2004*. The Committee queried an apparent drafting inconsistency between the explanatory notes and the Bill where the term "safety management plan" in the *Petroleum and Gas (Production and Safety) Act 2004* has been replaced either with the term "safety management system" or the term used by the coal industry, that is, "safety and health management system". Any reference to "safety and health management system" in the explanatory notes or provisions relating to the *Petroleum and Gas (Production and Safety) Act 2004* will be corrected to consistently read "safety management system".

CLARIFICATION ON POINTS RAISED BY THE COMMITTEE

Water Entitlement Notice

Point of clarification

The committee sought clarification regarding the nature of issues associated with the volumetric security and sustainability of rules-based water allocations, and implications for water trading under the proposed framework.

Government Response

The amended purpose of the *Water Act 2000* provides for the responsible and productive management of water, which is defined to include building confidence regarding the security and value of water entitlements. The development of water plans, including the

establishment of water allocation security objectives through these plans, must advance the responsible and productive management of water.

In any circumstance where government was proposing the conversion of existing water licences to tradable water allocations, there would have to be a high degree of confidence that the share of the resource allocated under each water allocation would be able to be clearly specified, and that share protected through sharing and trading rules provided in the water plan, and in the operational documents which implement the water plan.

Water Development Option

Point of clarification

The committee sought clarification regarding clause 68 new sections 82(2)(d) and 90(1)(b)(i), and invites the Minister to comment on the feasibility of limiting water development options to where there are sufficient unallocated water reserves, to preserve existing entitlements of other water users and the environment under water plans.

Government Response

The Government advises that not all projects can be accommodated under existing unallocated water reserves, particularly in areas where the existing plan has been shaped by current knowledge of economic development opportunities. The Bill provisions enable government to respond to new unforeseen development opportunities or industries as they emerge by allowing the robust science and community consultation of an environmental impact assessment process to inform the amendment to a water plan.

The environmental impact assessment must demonstrate the water is available to support the project and that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated otherwise the water development option can be cancelled (new section 90). Additionally, if the assessment does not meet these requirements, the water planning instruments cannot be amended, if required, to accommodate the project (new section 91).

At all times, the Minister maintains the discretion to decide not to amend a water plan to accommodate the project (new section 52).

Point of clarification

The committee sought clarification regarding the feasibility of including criteria for decision-making within the Bill, to provide clear terms of reference for environmental impact assessment and comprehensively integrate water-related matters.

Government Response

The Government advises that the Bill sets the generic requirements for the environmental impact assessment to address water-related matters of relevance to water planning (i.e. addressing the impacts on existing water authorisations and the environment). However, the specific matters relating to a project or an area will be a subset of these generic requirements.

The generic requirements for the environmental impact assessment to address water-related matters relevant to water planning are captured in the following new sections:

- Before granting a water development option, the chief executive must consider whether an environment impact assessment is likely to demonstrate that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated (new section 85(d)). This determines whether it is feasible that the assessment will provide government with the information and confidence it needs to make future decisions to allocated water for the project.
- The environmental impact assessment must demonstrate the water is available to support the project and that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated otherwise the water development option can be cancelled (new section 90).
- If the assessment does not meet the requirement to demonstrate the water is available to support the project and that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated, the water planning instruments cannot be amended, if required, to accommodate the project (new section 91).

The Department of Natural Resources and Mines will continue to work closely with the Office of the Coordinator-General in setting fit-for-purpose water requirements through specifying terms of reference for the assessment. The consultation process afforded under the *State Development and Public Works Organisation Act 1971* through calling for submissions on a draft Terms of Reference provides further opportunity to establish a comprehensive and transparent set of assessment requirements.

Point of clarification

The committee sought clarification to ascertain how water-related matters can be best presented within an Environmental Impact Assessment, such as a discrete section or schedule, so that the information is accessible to review. The committee invited the Minister to liaise with the Minister for Environment and Heritage Protection on this matter.

Government Response

The Government advises that because the water development option provisions only relate to coordinated projects, the environmental impact assessment process is therefore not managed within the Environment and Heritage Protection portfolio, rather is managed through the Office of the Coordinator-General in accordance with the *State Development and Public Works Organisation Act 1971*.

The Department of Natural Resources and Mines will continue to work closely with the Office of the Coordinator-General in setting fit-for-purpose water requirements through specifying terms of reference for the assessment, including appropriate formats in which to provide the information in a way that is meaningful to Government and to members of the public wishing to make a submission on a draft environmental impact statement.

Regulation of taking and interference with water

Point of clarification

The committee sought clarification regarding the merits and feasibility of including criteria within the Bill to guide decision-making for deregulation.

Government Response

The Bill provides improved clarity of existing provisions in the *Water Act 2000* and Water Regulation 2002. Under the current Water Act the chief executive already has the ability to declare upstream and downstream limits on a watercourse. In addition, schedule 1 of the Water Regulation already enables the chief executive to identify low risk activities for general authorisation to take water. These are in addition to a range of statutory authorisations already provided under the Act for which a water entitlement or permit is not required for the taking or interfering with water.

Under the proposed amendments, removing the need for an entitlement from a watercourse could occur via the identification of designated watercourses or via prescription of authorised exemption thresholds for take or interference with water. As water use and demands are variable across catchments, a rigorous assessment undertaken on a catchment by catchment basis will inform any decision to reduce regulation. It will be undertaken in close consultation with affected stakeholders involving detailed analysis of the needs of existing users and the environment. In most cases, this will be undertaken through the development of a water plan.

Department of Natural Resources and Mines will continue to monitor any impacts on the resource using existing monitoring networks and appropriate management regimes will be determined and adjusted during this process.

Point of clarification

The committee sought clarification regarding the merits and feasibility of registering intended use of water, under a deregulated approach.

Government Response

Under the current *Water Act 2000* and continued through this Bill, there are provisions which allow the chief executive to obtain water information from a person who is authorised to take or interfere with water under the Act and to require a person to notify of existing water works or works proposed to be constructed for the taking or interfering with water. The data collected under these provisions is used by the chief executive to monitor and assess levels of water use across the State and is also used to determine whether there is an appropriate level of regulation in relation to the taking or interference with water.

Point of clarification

The committee sought clarification regarding proposed actions to improve monitoring and evaluation of cumulative impacts of deregulation within and across catchments, as part of planned implementation of the Bill.

Government Response

Monitoring and evaluating changes to water use resulting from deregulation is central to the effective implementation of deregulation. The Government will rely on a three-tier approach to monitoring which will address potential impacts within and across catchments.

At the property level, the Department of Natural Resources and Mines will continue to undertake a targeted and risk-based approach to monitoring, measurement and compliance, with an appropriate level of focus around those areas of greatest water demand and use.

At a catchment level, the periodic reporting framework for water plans will address the water use, including water use under the statutory authorisation framework that supports our deregulation agenda. The requirements for this reporting framework are set out transparently in the Water Regulation 2002, and the reports are supported by research undertaken under the Queensland Water Planning Science Plan. These periodic reports address risks to the water plan outcomes for each catchment, and non-compliance occurring in the water plan area.

Ongoing targeted investment in multi-catchment initiatives, such as the Reef Water Quality Protection Plan, will address the potential impacts that cannot be adequately addressed through the water planning framework.

Management of impacts on underground water

Point of clarification

The committee sought clarification on the need for review of the definition of affected person within mining laws to ensure that consultation as part of a mining lease application includes consultation with affected persons with respect to water impacts, whom may be different from those affected by land-based activities.

Government Response

The Government thanks the committee for its consideration of this issue; however the Government does not consider that there is need for further review of the definition of affected person within mining laws.

The *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act) defines an affected person for the purposes of the notification and objection process for mining lease applications. These definitions do not trigger any consultation or compensation processes of themselves; they merely outline the persons that are required to be notified that an application for a mining lease has been made, and who can then object to the mining lease application. For notifications these include directly affected landowners, adjoining landowners, occupiers, local governments and infrastructure providers. Affected landowners, adjoining landowners and local government may object to the mining lease application.

The *Mineral Resources Act 1989* (MRA) sets out the processes for compensation and access to the area of a mining lease, which must be settled prior to the grant of the mining lease. The compensation agreements under the MRA only apply to the owner of land the surface of which is the subject of the application and of any surface access to the mining lease land. The definition of affected person in the MERCP Act does not apply in these instances.

Likewise, provisions for who may seek a compensation agreement under the MRA are separate to the provisions of Chapter 3 of the *Water Act 2000* relating to make good agreements. It is not necessary for a landholder to have, or be eligible for a compensation agreement for them to have, or be entitled to a make good agreement under Chapter 3.

As such, it is considered that a review of the definition of affected person within the mining laws does not require further review to ensure consultation is undertaken on water impacts. The water impacts from mining are best managed under the provisions contained in the Bill.

Point of clarification

The committee sought clarification on the onus of proof for make good agreements under the Bill in providing equity for affected parties, such that:

1. Where the resource company accepts that a bore will, or will likely, be impacted at some stage in the project, make good measures are specified immediately and provided.
2. If a landholder can demonstrate through water impact reports or modelling that there are reasonable grounds to consider that their bore could be adversely impacted by the mining activity in the life of the project; if the resource company cannot prove otherwise, make good measures are to be specified immediately and provided.
3. If a landholder can demonstrate through water impact reports or modelling that there are reasonable grounds to consider that their bore could be adversely impacted by the mining activity in the life of the project; if this is not accepted by the resource company, then a make good agreement should provide an appropriate monitoring regime, unless impairment then arises which require make good measures.
4. If a landholder can demonstrate through water impact reports or modelling that there are reasonable grounds to consider that their bore could be adversely impacted by the mining activity in the life of the project; if the resource company can prove that the bore/s will not be impaired, then the landholder must await an actual impairment before being entitled to make good measures.

Government Response

The Government thanks the committee for its consideration of this issue. Chapter 3 of the *Water Act 2000* already provides for make good agreements to be prepared in all of these situations. This is achieved through a suite of measures:

- Where a tenure holder accepts or establishes that a bore has or is likely to have an impaired capacity, existing section 406 (in the case of a general agreement) or existing section 420 (where a bore assessment has been undertaken) requires the make good agreement to provide for make good measures to be taken by the responsible tenure holder for that bore (point 1 and 2).
- The onus is placed on the tenure holder to monitor, assess and report on impacts through the underground water impact report. The underground water impact report identifies bores for which a bore assessment must be done which triggers a requirement to enter into make good agreements with the bore owners. Landholders may make a submission on the draft underground water impact report, which must be considered by the tenure holder in finalising the underground water impact report (points 2 and 3).
- The Chapter 3 framework is designed to provide opportunities to the bore owner to have their say while not placing the onus of proof on the bore owner to demonstrate impairment, or the cause of impairment. A bore owner who is concerned that their bore is impaired may seek advice and assistance from the chief executive. The chief executive will independently assess the bore owner's claim, and has the power under section 418 to direct a tenure holder to undertake a bore assessment if the chief executive believes that a water bore can no longer supply a reasonable quantity or quality for its authorised use or purpose. The Bill expands the power of the chief executive to direct a bore assessment if the chief executive believes that a water bore is affected or likely in the future to be affected by the exercise of a resource tenure holder's underground water rights (points 2, 3 and 4).
- As a mandatory requirement of a bore assessment, if the tenure holder concludes that the bore is not or will not be impaired as a result of their underground water rights, the tenure holder must investigate other possible causes for the declining water levels (e.g. it may be that a decline is caused by drought or other water extracting industries) (points 2, 3 and 4).

- If an impaired capacity cannot be established for a water bore, the make good agreement does not require make good measures. However, as make good agreements are agreed between the parties, the agreement may include a plan to monitor the bore. In addition, under section 424, the agreement can also be modified at any time if there is a material change, for instance, if the monitoring indicated that the bore may be impaired or is likely to become impaired and the bore requires a further bore assessment (points 3 and 4).

Point of clarification

The committee sought clarification regarding the onus of proof for make good agreements under the Bill in providing that a project need only be a cause or contributor to the impairment for an entitlement to make good measures, in recognition of hydrogeological uncertainties.

Government Response

Government thanks the committee for its consideration of this issue. A tenure holder is required to 'make good' impacts to a bore that has an impaired capacity to the extent that those impacts are caused by the exercise of the tenure holder's underground water rights. Where the impairment is due to a combination of causes, the tenure holder is responsible for the part of the overall impairment that is due to their exercise of underground water rights.

It would not be fair to require tenure holders to make good impacts which are not related to the tenure holder's exercise of underground water rights (for example, drought). If the tenure holder asserts that there is no evidence that the decline in water level is due to their exercise of underground water rights, the tenure holder must under section 414 (as a mandatory requirement of the Bore Assessment Guidelines) investigate other possible causes for the decline and note these in the bore assessment (e.g. it may be that a decline is caused by drought or other water extracting industries).

The framework is designed to reduce uncertainty about the likelihood of impairment and its causes and to allow decisions to be reviewed as information improves over time. The requirement to review the underground water impact report every three years allows results of monitoring and improvements in modelling methodologies to be used to revise the identification of impacts and update the mapping of the immediately affected area. In addition, under section 424, the agreement can also be modified at any time if there is a material change, one or more make good measures agreed to is not effective, or another effective and more efficient make good measure is available

Point of clarification

The committee sought clarification regarding options to improve confidence in the arrangements set out for water monitoring authorities, including the use of accredited third party bodies.

Government Response

The Government thanks the committee for its consideration of this issue. Water monitoring authorities are only a form of gaining access to land for the purposes of water monitoring. This enables a company to enter onto land that is not within the area of the resource tenure and on which the resource company has no other right of access, in order to fulfil its obligations to conduct water monitoring. As such, this is a tenure arrangement rather than a specification of how monitoring is to be conducted.

The standard of the water monitoring is ensured through measures contained within Chapter 3 of the *Water Act 2000*. As part of the underground water impact report, the tenure holder must provide a water monitoring strategy (see section 377 and section 378) which details their methodology and program for monitoring, and the underground water impact report also includes results and modelling based on data from previous water monitoring. The underground water impact report is assessed and approved by the chief executive. Further, the chief executive may require tenure holders to provide monitoring information (section 454) and the Office of Groundwater Impact Assessment may also require tenure holders to provide information (section 460). Compliance audits on company monitoring activities are conducted as part of the State Government's compliance plan.

Notwithstanding the above, companies are able to use accredited third parties for monitoring if they wish to do so (but also may undertake the monitoring themselves). Conditions imposed on the underground water impact report require that all monitoring must be undertaken in accordance with specified Australian best practice standards.

Point of clarification

The committee sought clarification on the efficacy of existing make good agreements programs, in proposing their introduction under the *Water Act 2000*, and to comment on any plans for an outcomes evaluation after a reasonable period when negotiation of a number of make good agreements has occurred.

Government Response

The Government thanks the committee for its consideration of this issue. It is prudent that all regulatory frameworks are regularly reviewed to ensure that the objectives and purpose are achieved.

The Government is committed to ensuring the efficacy of the underground water management framework, and this will include ongoing analysis of the provisions surrounding make good agreements and make good measures. Feedback from affected landholders and industry bodies to the Government's CSG Compliance Unit and the GasFields Commission will be an integral part of this process.

Entitlement for take of non-associated water

Point of clarification

The committee sought comment regarding how information on water entitlements throughout the transition period will be available for water planning, should public notification not occur and in response to concerns raised by stakeholders.

Government Response

The Government thanks the committee for its consideration of this issue. The Bill provides an obligation for a petroleum tenure holder to report to the Department of Natural Resources and Mines on the take of non-associated water during the transition period (Clause 15, proposed new section 186(4) of the *Petroleum and Gas (Production and Safety) Act 2004*). This information will be considered in the review of existing water plans such as the Water Resource (Great Artesian Basin) Plan 2006 (GAB Water Plan).

In addition to information provided in compliance with this provision, existing tenure holders are expected to request an authorisation under the process established by proposed section 1277 of the *Water Act 2000*, to recognise their existing and committed exercise of the

current underground water right to take non-associated water. Under this process, tenure holders must provide sufficient information to support the request, and this would include information on their existing take of non-associated water and the water required to implement their approved work programs and development. This information can then also be considered in the water planning process.

Further, appropriate consultation will be conducted with industry during the proposed review of the GAB Water Plan and related studies. Industry is expected to avail itself of the opportunity to contribute information to the review, to enable the resulting GAB Water Plan to reflect the needs of the petroleum and gas sector as well as other sectors.

River Improvement Trusts

Point of clarification

The committee sought clarification on ongoing consultation with local government to resolve an acceptable method of determining funding contribution by local government(s) to the trust, where initial negotiations between the trust and local government fail to reach agreement.

Government Response

The Government thanks the committee for consideration of this issue. In relation to the Minister's role in the annual funding contribution the legislation currently allows for a river improvement trust to 'levy' a precept on a local government to cover its annual works program. In reality trusts and local governments have worked together to negotiate the annual precept amount. The *River Improvement Trust Act 1940* is being amended to reflect the current, more contemporary and appropriate arrangement.

The Minister's ability to set the levy is designed as a last resort and it should also be noted that the Minister would only exercise such a power after very full consultation with all affected parties.