

Queensland Government Response

State Development, Infrastructure and Industry Committee

Report No. 36

Water Supply Services Legislation Amendment Bill 2014

INTRODUCTION:

On 25 March 2014, the State Development, Infrastructure and Industry Committee (the Committee) tabled its report on the *Water Supply Services Legislation Amendment Bill 2014* (the Bill). The Queensland Government's response to the recommendations of the report and clarification on other matters raised by the Committee are provided below.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1

The committee recommends the Water Supply Services Legislation Amendment Bill 2014 be passed.

Queensland Government Response

The Queensland Government thanks the Committee for its consideration of the Bill and accepts the Committee's recommendation that the Bill be passed.

Recommendation 2

The committee recommends the Minister for Energy and Water Supply consults with the peak bodies within the plumbing industry to advise of any proposed future changes to the regulation of plumbing work.

Queensland Government Response

The Queensland Government consulted with the plumbing industry on the proposal to amend to the *Plumbing and Drainage Act 2002* to clarify that a water service provider's authorised person can install the service provider's primary water meters. Their concerns were taken into account in restricting the amendments to primary meters only. Noting the industry remains opposed to any change.

Consultation occurred through the quarterly Plumbing Industry Consultative Group, convened by the Department of Housing and Public Works. This group received updates and discussed the proposal at each quarterly meeting from March 2013 until the most recent meeting in December 2013. The Department's Director-General met separately with both the Plumbers Union Queensland and the Master Plumbers Association of Queensland in April 2013. In addition, there has been substantial correspondence with the plumbing sector over this issue. The industry's concerns about sub-meters were incorporated in the drafting process and there was direct officer level consultation with the Master Plumbers Association of Queensland in September 2013 to discuss how the amendments could be drafted to ensure that sub-meters were not captured.

Any further changes to the regulatory framework for plumbing are the responsibility of the Minister for Housing and Public Works who is responsible for the *Plumbing and Drainage Act 2002*. The industry will continue to be consulted in the course of any future amendments to that Act.

Recommendation 3

The committee recommends the Department of Energy and Water Supply engages with water service providers to ensure that they support their water industry workers in obtaining a minimum level of training or qualification and provide additional assistance to support regional and remote water industry workers.

Queensland Government Response

The Queensland Government is working with water service providers to ensure that staff have access to appropriate training and to address the issue of minimum skill levels for critical roles, especially drinking water treatment plant operators. The industry is currently undertaking a trial implementation of a national water treatment operator skills certification program, with support from the Department of Energy and Water Supply. The Queensland Government will continue to work closely with the Local Government Association of Queensland (LGAQ) and the Queensland Water Directorate to provide appropriate policy and regulatory support to strengthen the skills of the water sector, especially remote and regional service providers.

Recommendation 4

The committee recommends the Minister for Energy and Water Supply considers amending the Water Supply Act to determine if water industry workers should face individual penalties for unsafe work.

Queensland Government Response

The Queensland Government acknowledges the Committee's recommendation regarding penalties for individual water industry workers that carry out unsafe work. In context, the Committee expressed concerns that a licensed plumber and a water industry worker (the service provider's authorised person) could perform the same work, installation of a water meter, but face different penalties for unsafe completion of that work.

However, in general, a licensed plumber and a water industry worker face similar repercussions for the unsafe installation of a water meter. For a licensed plumber, the most severe disciplinary action may involve cancellation of their licence, while a water industry worker may face dismissal.

The Committee noted that a licensed plumber may face an individual penalty of no more than 60 penalty units or 165 penalty units for more serious matters. An authorised person is not subject to individual penalties because ultimate responsibility for providing safe drinking water rests, with the water service provider. Drinking water service providers must comply with their approved drinking water quality management plan and there are strong penalties for failing to comply.

It should also be noted that it is an offence under the *Plumbing and Drainage Act 2002* and the *Water Supply (Safety and Reliability) Act 2008* for any person, whether a licensed plumber, authorised person, or unauthorised person to carry out any activity that is likely to pollute water in a service providers infrastructure.

For all of the reasons outlined above, the Queensland Government considers the framework is appropriate.

Recommendation 5

The committee recommends the Minister for Energy and Water Supply considers strengthening the definition of 'relevant water meter' to ensure it adequately excludes all other forms of technical plumbing work.

Queensland Government Response

The Government has reviewed the definition of 'relevant water meter' and considers that it adequately excludes all other forms of technical plumbing work, including sub-meters. In relation to a backflow prevention device, the Government's position is that this is a separate requirement that is unrelated to the installation of the water meter. In effect, a specially qualified plumber will still be needed to install backflow prevention devices on customers' plumbing.

The Queensland Government will consult closely with the water industry during the implementation of the new arrangements to ensure the industry is aware that the installation of sub-meters will still need to be undertaken by licensed plumbers.

Recommendation 6

The committee recommends the Department of Energy and Water Supply undertakes ongoing collaboration with the Queensland Audit Office on the development of key performance indicators to satisfy the auditors.

Queensland Government Response

The Queensland Government acknowledges the Committee's recommendation and the Department of Energy and Water Supply has already met with senior offices of the Queensland Audit Office to start the development of audit guidelines and standards in preparation for developing key performance indicators.

RESPONSE TO POINTS FOR CLARIFICATION:

Point for clarification 1

The committee seeks clarification from the Minister for Energy and Water Supply on whether water and sewerage service providers would be required to report on system leakage, drought management and outdoor water use under the Key Performance Indicator framework and, if not, how the regulator will assess their management of these matters.

Queensland Government Response

The Key Performance Indicator (KPI) reporting framework is intended to include indicators which address water efficiency and water security, which are the outcomes that the system leakage, drought management and outdoor water use plans were intended to address. Providers will be asked to identify how much water they sourced, how much was supplied to customers and how much was not supplied to paying customers including leaks and other forms of non-revenue water. To encourage forward-planning, they will be asked to identify their short-term and medium-term (five year) capacity to meet demand, as well as to identify if restrictions were imposed during the year.

If the indicators show that the provider is likely to have water security issues, then the regulator will be able to address the issue in more detail through the escalating powers proposed under the new Chapter 5, Part 5A, including investigations, improvement plans and directions.

Point for clarification 2

The committee seeks clarification from the Minister for Energy and Water Supply on how the annual reports from drinking water and sewerage providers would align with the requirements under the *Local Government Act 2009*.

Queensland Government Response

The Local Government Regulation 2012 requires councils to prepare long-term asset management plans that cover a 10 year planning horizon. These plans are not specific for water and sewerage infrastructure because they cover all asset classes. The *Local Government Act 2009* does not require detailed reporting about the implementation of these plans whereas the new performance reporting framework proposed under the *Water Supply (Safety and Reliability) Act 2008* provides detailed data on individual services providers.

The annual reports for drinking water and sewerage service providers will provide more detailed information on the performance of the water and sewerage activities of councils and other water service providers than is required under the *Local Government Act 2009* framework, which largely focuses on financial sustainability. Importantly, the removal of the *Water Supply (Safety and Reliability) Act 2008* obligation to submit a water and sewerage strategic asset management plan to the Department of Energy and Water Supply does not relieve local government water service providers of their obligation to prepare and adopt a long-term asset management plan.

Point for clarification 3

The committee seeks clarification from the Minister of Energy and Water Supply on how the State Government will determine which small and remote councils require assistance in the delivery of their water and sewerage services without the information that would have been provided in the management plans.

Queensland Government Response

The management plans were not used to any great extent to provide information on which providers required support in the delivery of their services. In practice, management plans tended to be quite static documents and several small providers had regulatory exemptions from submitting them. One of the key drivers for introducing the performance reporting framework was to improve the quality of information on the performance of all providers. The framework will also improve the transparency of information to council managers, councillors and ratepayers on the relative performance of their water and sewerage services to drive and inform local and regional responses to local and regional challenges.

Point for clarification 4

The committee seeks clarification from the Minister for Energy and Water Supply that the current level of support to regional and remote councils from the State Government relating to water and sewerage provision would continue if the Bill were to be passed.

Queensland Government Response

The Bill is not expected to change the level of support to regional and remote councils. The availability of better performance information will enable the Queensland Government to better target its resources to ensure that the areas in most need get the most support.

Point for clarification 5

The committee seeks further information relating to the introduction of penalty infringement notice offences to improve compliance with the Water Supply Act.

Queensland Government Response

Enforcement of regulatory frameworks relies on warnings and show cause or compliance notices. If earlier remedies have been unsuccessful, the issue of noncompliance can escalate to court action if appropriate.

The Department has identified a small number of offences which would benefit from an additional compliance tool, as well as being suitable for application of a penalty infringement notice (PIN). New PIN offences for the *Water Supply (Safety and Reliability) Act 2008* have only been proposed where: a PIN could be readily administered; is proportionate to the offence; and would act as a deterrent. A separate process to introduce PIN offences is being progressed in consultation with the Department of Justice and Attorney-General.

Point for clarification 6

The committee seeks clarification from the Minister for Energy and Water Supply on the impact of the removal of the mandated requirement for water service providers to produce total water cycle management plans under the *Environmental Protection (Water) Policy 2009* on the development of a whole of urban water cycle approach to planning and management.

Queensland Government Response

The *Environmental Protection (Water) Policy 2009* (EPP Water), administered by the Department of Environment and Heritage Protection, was amended effective 6 December 2013 to remove the requirement for local governments to prepare total water cycle management plans and trade waste plans. Neither of these plans formed part of water service provider regulation under the *Water Supply (Safety and Reliability) Act 2008*.

This Bill makes subsequent amendments to replace specific references to total water cycle management plans with a generic reference to the plans for South East Queensland service providers. This ensures that if a total water cycle management plan has already been developed, an SEQ service provider must have regard to the plan when making its water netserv plan so that the SEQ distributor-retailer network planning will be cognisant of the total water cycle management planning of their participant local governments.


Key performance indicators under performance reporting framework in the Bill will provide measurement of some total water cycle and environmental performance indicators.

Point for clarification 7

The committee seeks advice from the Minister for Energy and Water Supply in relation to the timeframe for any further work to be undertaken on the sharing of water consumption information between water service providers and tenants, and details of any stakeholders that may be consulted.

Queensland Government Response

The issue of sharing of water consumption information between water service providers and tenants will be considered as part of the broader issue of how tenants and lessors should share the costs of water service provision. This issue has proven to be contentious in submissions the Queensland Government has received in response to the 30-year water strategy discussion paper and will require extensive consultation with the water industry, landlords, and tenants, and their respective peak bodies, including QCOSS. This work would likely include substantial assessment of the relative costs and benefits of different approaches and would probably include a formal Regulatory Impact Statement. The Government will not be in a position to commit to a timeframe for the work until the 30-year water strategy is finalised later in 2014.

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