

Water Supply Services Legislation Amendment Bill 2014

Report No. 36

State Development, Infrastructure and Industry Committee

March 2014

State Development, Infrastructure and Industry Committee

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Chair's foreword

This report presents a summary of the State Development, Infrastructure and Industry Committee's examination of the Water Supply Services Legislation Amendment Bill 2014.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to the legislation, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank those organisations and individuals who lodged written submissions on the Bill and others who informed the committee's deliberations.

The Parliamentary committee inquiry process is an opportunity for the public to put forward their views at public hearings on contentious issues where important information can often be revealed for the benefit of the committee. On occasion, individuals may put forward strong views in a threatening manner. The committee is willing to accept any views in relation to Bills that are put forward in a respectful manner.

The committee performs an important function of the Queensland Parliament and at times is required to disentangle political issues from its technical scrutiny of a Bill to determine the significance of the issue and to then use this as the basis to make recommendations to the Parliament. The use of threatening language towards committee members does nothing to assist this process and fails to recognise the bipartisan approach that the committee undertakes to all of its examinations.

I would also like to thank the officials from the Department of Energy and Water Supply who briefed the committee, the committee's secretariat, and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.



David Gibson MP
Chair

25 March 2014

Abbreviations

BCC	Brisbane City Council
Bill	Water Supply Services Legislation Amendment Bill 2014
committee	State Development, Infrastructure and Industry Committee
CRC	Cairns Regional Council
department	Department of Energy and Water Supply
DEWS	Department of Energy and Water Supply
DSDIP	Department of State Development, Infrastructure and Planning
EPP	Environmental Protection (Water) Policy 2009
FLP	fundamental legislative principle
IDAS	Integrated Development Assessment System
JAG	Department of Justice and Attorney-General
KPI	key performance indicator
LGA	<i>Local Government Act 2009</i>
LGAQ	Local Government Association of Queensland
MBRC	Moreton Bay Regional Council
OQPC	Office of Queensland Parliamentary Counsel
PCA	Property Council of Australia
PDA	<i>Plumbing and Drainage Act 2002</i>
qldwater	Queensland Water Directorate
QAO	Queensland Audit Office
QCOSS	Queensland Council of Social Service
SEQ	South-East Queensland
SEQ Water Act	<i>South-East Queensland (Distribution and Retail Restructuring) Act 2009</i>
SPA	<i>Sustainable Planning Act 2009</i>
UDIA	Urban Development Institute of Australia
Water Supply Act or WSA	<i>Water Supply (Safety and Reliability) Act 2008</i>
WSSP	water and sewerage service providers

Recommendations

Recommendation 1 **2**

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

Recommendation 2 **6**

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.

Recommendation 3 **8**

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.

Recommendation 4 **10**

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.

Recommendation 5 **11**

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.

Recommendation 6 **27**

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.

Points for Clarification

Point for clarification 1 22

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.

Point for clarification 2 22

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*.

Point for clarification 3 23

The committee seeks clarification from the Minister for 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.

Point for clarification 4 23

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.

Point for clarification 5 23

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

Point for clarification 6 24

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.

Point for clarification 7 25

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.

1 Introduction

1.1 Role of the committee

The State Development, Infrastructure and Industry Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012 and consists of government and non-government members.

The committee's primary areas of portfolio responsibility are:¹

- State Development, Infrastructure and Planning
- Energy and Water Supply, and
- Tourism, Major Events, Small Business and the Commonwealth Games.

1.2 The referral

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

On 11 February 2014, the Water Supply Services Legislation Amendment Bill 2014 (the Bill) was referred to the committee for examination and report. In accordance with Standing Order 136(1), the Committee of the Legislative Assembly fixed the committee's reporting date as 25 March 2014.

1.3 The committee's inquiry process

On 13 February 2014, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of relevant stakeholders. The closing date for submissions was 28 February 2014. The committee received 78 submissions (see Appendix A for list of submitters).

On 5 March 2014, the committee held a public briefing with the Department of Energy and Water Supply (the department). On 17 March 2014, the committee held a public hearing in Brisbane (see Appendix B for list of witnesses).

The submissions and the transcripts of the public departmental briefing and public hearing are available from the committee's webpage at www.parliament.qld.gov.au/sdiic.²

1.4 Policy objectives of the Bill

The policy objectives of the Bill are to:³

- provide a streamlined process for water and sewerage connection approvals (utility model) for South East Queensland distributor-retailers,
- transform the regulation of water and sewerage service providers,
- reduce the regulatory burden on recycled water providers,
- improve the operation of distribution and retail water businesses in SEQ by removing the requirement to publish draft charges, and increasing the number of councillors allowed on distributor-retailer boards,

¹ Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 11 February 2014).

² At the time of writing this report, the transcript of the public hearing was a proof transcript.

³ Explanatory Notes, p 1.

- enable authorised persons appointed by a water service provider to install certain water meters, in addition to licensed plumbers,
- streamline appeal provisions relating to dam safety matters, and
- repeal the *Metropolitan Water Supply and Sewerage Act 1909*.

These objectives are examined in Part 2 of this report.

1.5 The Government's consultation on the Bill

The Government did not undertake broad public consultation on the Bill. It did conduct detailed consultation with certain key stakeholders, such as distributor-retailers, affected local governments, industry representatives, various State agencies, Master Plumbers' Association and the Plumbers Union Queensland, the Queensland Water Directorate (qldwater) and the Local Government Association of Queensland (LGAQ), on various aspects of the Bill.⁴

1.6 Should the Bill be passed?

Standing Order 132(1)(a) requires the committee to determine whether to recommend the Bill be passed. After examining the Bill, and considering issues raised in submissions and at the public hearing, the committee has determined the Bill should be passed.

Recommendation 1

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

⁴ Explanatory Notes, pp 14-15.

2 Examination of the Bill

2.1 Installation of certain water meters by authorised persons

2.1.1 Legislative overview

The introduction of the *Water Supply (Safety and Reliability) Act 2008* (WSA or Water Supply Act) in 2008 created an ambiguity between its provisions and the *Plumbing and Drainage Act 2002* (PDA) relating to the lawfulness of certain persons installing water meters. In particular, whether a licensed plumber is required by law to install a water meter or whether this can be undertaken by an authorised person appointed by a water service provider.

Section 35(1) of the WSA provides a service provider is allowed to install, or approve the installation of, a water meter on infrastructure supplying water to premises. The meter is the property of the service provider even if it is installed inside the boundary of the premises.⁵

A service provider may appoint someone as an ‘authorised person’ of the service provider to undertake this work. The service provider needs to be satisfied the person has the necessary expertise or experience or have completed approved training.⁶

The authorised person is empowered under the WSA to enter premises to read, maintain or replace a water meter. This is one part of the ambiguity within the legislation – whether an authorised person can install a water meter.

The explanatory notes to the WSA state:⁷

*...Clauses 33, 34, 35, 36 and 37 of the Bill allow an authorised person, for example, an appropriately qualified employee or contractor of a service provider, to enter places to: disconnect unauthorised connections to the provider’s infrastructure; undertake remedial work; **install**, read, check, maintain or replace meters and; for other restricted purposes such as maintaining and protecting infrastructure. (Emphasis added)*

It is evident that it was the intent of the previous government to permit an ‘authorised person’ to install water meters however, the legislation did not achieve that intent.

The second part relates to the definition of ‘plumbing work’ under the PDA. Plumbing work is defined as installing, changing, extending, disconnecting, taking away and maintaining plumbing.⁸ To undertake plumbing work, a person requires a plumbing licence. Sections 119 and 120 of the PDA provide that a person cannot perform or supervise work for which a plumbing licence is required (i.e. unlicensed work).⁹ Section 121 provides certain exemptions for this offence.¹⁰

Essentially, the Acts cannot be easily read together. It could be argued on the one hand, that a person needs a plumbing licence to install a water meter. Conversely, it could be argued that authorised persons can perform this work.

⁵ *Water Supply (Safety and Reliability) Act 2008*, section 35(2).

⁶ *Water Supply (Safety and Reliability) Act 2008*, section 45.

⁷ *Water Supply (Safety and Reliability) Act 2008*, Explanatory Notes, p 8.

⁸ *Plumbing and Drainage Act 2002*, Schedule.

⁹ Sections 119 and 120 of the *Plumbing and Drainage Act 2002* set out penalties for unlicensed work (i.e. 165 penalty units).

¹⁰ *Water Supply (Safety and Reliability) Act 2008*, section 37.

The plumbing industry was quite firmly of the view that water meter installations need to be undertaken by licensed plumbers. Whereas the department considered that authorised persons can undertake the work and some local councils were doing so.¹¹

LGAQ submitted:¹²

... the 'demarcation' conflict between [the two Acts] has consumed considerable resources in negotiations and legal interpretation; and has been a long standing source of aggravation between councils and the plumbing industry.'

2.1.2 Rationales for proposed amendment

The rationales for the proposed amendment to the PDA included:

1. To clarify the current legislation.¹³
2. To provide local governments/service providers with a choice in engaging the appropriate person to install their water meters to create efficiencies in undertaking this work.¹⁴
3. To bring Queensland in line with other Australian jurisdictions.¹⁵

Clause 44 of the Bill seeks to amend the PDA to create an offence excuse for an 'authorised person' appointed by a water service installing a 'relevant meter' (i.e. a master meter) on the service provider's infrastructure.¹⁶

All submissions from the plumbing industry did not support this amendment. Conversely, the LGAQ and qldwater have advocated for the amendment to the PDA for some time.¹⁷

The Minister for Energy and Water Supply stated:¹⁸

This amendment will save time and money for service providers and developers.

In relation to increasing efficiencies, the explanatory notes state:¹⁹

In line with the practices in other Australian jurisdictions it is appropriate for water service providers to be able to install the main or master meter on their own infrastructure using suitably trained and experienced staff, as they bear the ultimate responsibility for the work.

Services Trades Queensland submitted:²⁰

... no agency has provided analysis or evidence that the amended legislation would lead to any substantive reduction in business or government roadblocks or bureaucracy that would result in a real reduction in costs, or that would help lift productivity.

The committee was advised that it is not a statutory requirement in the majority of Australian jurisdictions for licensed plumbers to install water meters on a service provider's infrastructure. However, this did not mean licensed plumbers were not used; only that the choice was a matter of

¹¹ Department of Energy and Water Supply, correspondence dated 6 March 2014.

¹² Local Government Association of Queensland, Submission No. 69.

¹³ Public briefing transcript, 5 March 2014, p 7.

¹⁴ Public briefing transcript, 5 March 2014, p 5; Public hearing transcript, 17 March 2014, p 29.

¹⁵ Public briefing transcript, 5 March 2014, p 7; Department of Energy and Water Supply, Correspondence, 11 March 2014.

¹⁶ Explanatory Notes, p 68; Public briefing transcript, 5 March 2014, p 2.

¹⁷ Local Government Association of Queensland, Answer to question taken on notice.

¹⁸ Queensland Parliament, Record of Proceedings, 11 February 2014, p 51.

¹⁹ Explanatory Notes, p 3.

²⁰ Services Trades Queensland, Submission No 72.

policy as opposed to a statutory requirement.²¹ Witnesses suggested the department's information was inaccurate and that other states mandated the use of licensed plumbers for installing water meters.²² The committee is satisfied with the department's advice.

The committee notes the proposed amendment would create efficiencies for service providers by providing a choice of using their own workers or licensed plumbers to undertake water meter installations. The committee did not receive information from the department to indicate the amendment would provide costs savings; however, the committee can see there are benefits in affording flexibility to service providers in making their business choices.

2.1.3 Concerns of the plumbing industry

Loss of work and future changes

The Master Plumbers' Association of Queensland submitted:²³

The impact of this change will have far reaching effects on plumbers and plumbing businesses.

The Plumbers Union Queensland submitted:²⁴

... it will reduce employment opportunities for these businesses and likely lead to staff being laid off.

These job losses may also affect the number of apprentices which can be taken on in Queensland...

The explanatory notes state:

It is considered that the potential reduction in costs for water service providers and customers outweighs the potential loss in employment for licensed plumbers. The installation of water meters is a minor component of all licensed plumbing work and water service providers can still employ a licensed plumber to do the work if that is the best option.²⁵

The department further advised:²⁶

We have done no specific modelling on this per se. But again it is important to remember that the majority of plumbing work is household work—it is in the actual house and going down from the meter. Installing meters would not be such a large volume of work that it would have a significant impact on plumbers. Certainly that is the case for a lot of councils outside of South-East Queensland.

... We do not see a significant net drop in demand.

An additional concern of the plumbing industry is that this change will lead to further areas of plumbing work being 'deregulated'.²⁷ The department advised:

²¹ The jurisdictions compared were: New South Wales, Victoria, Tasmania, South Australia, and Western Australia. See: Department of Energy and Water Supply, Correspondence, 11 March 2014 and 18 March 2014.

²² Public hearing transcript, 17 March 2014, p 5.

²³ Master Plumbers' Association of Queensland, Submission No. 70.

²⁴ Plumbers Union Queensland, Submission No. 67.

²⁵ Explanatory Notes, p 15.

²⁶ Public briefing transcript, 5 March 2014, p 7.

²⁷ Public briefing transcript, 5 March 2014, p 7; Plumbing Union Queensland, Submission No. 67.

*... our policy remit stops at the meter... there are no policy pushes beyond that... we have no ability to get into that space.*²⁸

*Service providers will still be able to engage a plumber to do the work, if that is the best option.*²⁹

qldwater submitted:³⁰

Currently meter installation is a protected market and the change will open that market. For utilities, it is fundamentally about choosing people with appropriate skills to install and maintain their assets.

... plumbers will still be able to install meters, and many qldwater members have indicated that this practice will not change where that is prudent and efficient. Plumbers remain valued employees working within the Queensland urban water sector.

The committee was provided with anecdotal evidence from the plumbing industry that suggested significant volumes of metering work undertaken by plumbers would be reduced. The committee appreciates this information, however, it is not enough to satisfy the committee that the plumbing industry would be significantly affected by the Bill. The committee considers the plumbing industry needs to be consulted about any future changes to the regulation of plumbing work.

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.

Qualifications and training

Submitters from the plumbing industry raised concerns about the differences in training undertaken by licensed plumbers compared to water industry workers and maintained the licensed plumbers are more skilled to undertake water meter installations.³¹

Under the Australian Qualification Framework for water industry workers and plumbers, there are two training packages which include competencies for water meter installation:³²

1. As part of the Certificate II in Water Operations: The Water Training Package (NWP07) includes the voluntary competency NWP215B, 'Install and replace basic volumetric metering equipment'.
2. As part of the Certificate III in Plumbing: The Construction Training Package (CPC08) includes the voluntary competency CPCPWT3028A, 'Install water service'. This unit is not a mandatory component for obtaining a plumbers licence in Queensland.³³

²⁸ Public briefing transcript, 5 March 2014, p 7.

²⁹ Explanatory Notes, p 3.

³⁰ qldwater, Submission No. 42.

³¹ See for example: Plumbers Union Queensland, Submission No. 67, Master Plumbers' Association of Queensland, Submission No. 70; Services Trades Queensland, Submission No. 72.

³² Department of Energy and Water Supply, Correspondence dated 6 March 2014. See also: www.training.gov.au.

³³ Department of Energy and Water Supply, Correspondence dated 6 March 2014.

The Department advised:³⁴

Water industry workers are not licensed because they operate within the risk assurance framework of a larger organisation, not because they are unskilled.

... not all plumbers have the competency to do the metering. It is not a requirement under the licence. It is a very small part of the scope of plumbing work.

The Master Plumbers' Association of Queensland submitted:³⁵

The Bill does not outline any specific requirements for training of 'authorised person' and no training package or specific level of competency is mandated.

Any qualification less than a Certificate III in Plumbing will not provide satisfactory training for a water service worker to be deemed an 'authorised person'.

qldwater submitted:³⁶

The idea that licensed plumbers are 'more qualified' to install meters is completely inaccurate. The suggestion that utility staff are 'unskilled' is offensive.

Services Trades Queensland submitted:³⁷

STQ is not aware of any requirement upon a service provider to state or justify what necessary expertise, experience or training it requires.

By enabling the approximate 80 Water Service Providers and Councils to determine individually the types and levels of skills and what-ever training they require, without specification against minimum national qualifications or standards, will inevitably result in inconsistency in the skills and ability of workers, a lack of transferability of skills, and attendant risks to potable water supply.

The department advised minimum requirements were not specified for water industry workers.³⁸ Setting minimum qualifications for water industry workers is difficult as a result of the various frameworks in which service providers operate across the State.³⁹

It is also worth noting that a number of the submissions have suggested that there is not a water operations competency that covers this work, but there very clearly is. Both the plumbing competency under the national framework and the water operations have elective competencies that cover the installation of a metre. So it is not core in plumbing and it is not core in water operations. Arguably, not every plumber in Queensland who is licensed actually has done the training in competency to install a metre.⁴⁰

qldwater submitted:⁴¹

... the industry is committed to growing the uptake of this training package (which includes many specialised functions such as dam mangement, water and wastewater treatment) across the State through a number of initiatives.

³⁴ Department of Energy and Water Supply, Correspondence dated 6 March 2014; Public briefing transcript, 5 March 2014, p 3.

³⁵ Master Plumbers' Association of Queensland, Submission No. 70;

³⁶ qldwater, Submission No. 42.

³⁷ Services Trades Queensland, Submission No. 72.

³⁸ Public briefing transcript, 5 March 2014, p 3.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ qldwater, Submission No. 42.

Committee comment

The committee notes water industry workers undertake a wide variety of equally technical work within the water supply system and certainly does not consider water industry workers to be unskilled. The committee understands the onus is upon the water service provider to be satisfied that an authorised person has the necessary expertise or experience or that they have completed approved training. The committee understands the concept of authorised persons is not new and is used within other industries (such as mining).

A water industry worker can complete any training that is to the satisfaction of the water service provider. The committee does not consider there to be any difficulty with this as the business (i.e. the service provider), bears the risk and responsibility of using authorised persons to conduct its work. The committee also understands the skills sets of water industry workers and the needs of service providers differ throughout the state and this makes mandating minimum qualifications difficult. However, the committee recommends the Department engages with water service providers to ensure that they support their water industry workers to obtain a minimum level of training or qualification and provide additional assistance to support regional and remote water industry workers.

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.

Public health concerns

The plumbing industry raised significant concerns about possible public health risks that would occur if authorised persons undertook water meter installations.⁴²

The Master Plumbers' Association of Queensland submitted:⁴³

... there are serious potential risks to the health and safety of the community. Poor installation and maintenance of water meters may lead to disease and microbial breakouts.

The Plumbers Union Queensland submitted:⁴⁴

Incorrect installation of backflow devices leading to sewage, recycled water or other non-potable water contaminating domestic water supplies and water supply networks.

Installers without adequate knowledge can be subject to electric shocks from electric lines run alongside water meter installations.

... a water meter can only be safely installed by an appropriately trained and licensed person.

⁴² Plumbing Union Queensland, Submission No. 67; Master Plumbers' Association of Queensland, Submission No. 70.

⁴³ Master Plumbers' Association of Queensland, Submission No. 70;

⁴⁴ Plumbing Union Queensland, Submission No. 67.

LGAQ submitted:⁴⁵

LGAQ believes these claims to be baseless given current legislative requirements associated with drinking water quality.

qldwater submitted:⁴⁶

Water service providers own and maintain the meter once installed... it is illogical to suggest that an organisation with responsibility for the majority of the supply chain for its product would risk public health and safety at the point of connection.

The Department of Health advised:⁴⁷

... there is no evidence that the proposed changes would have an adverse impact on public health ...

Every water service provider in Queensland has a legal obligation under the Water Supply Act and the Public Health Act 2005 to provide safe water to customers, and installation and maintenance of water meters falls under this obligation.

There is no conclusive data on the likelihood of cross connections between recycled and drinking water resulting from incorrect installation of meters in Queensland.

The department advised:⁴⁸

This minor clarification in the legislative situation does not introduce a new public health risk. These water industry workers cannot be appointed unless they perform their functions safely and mitigate any risks to public health and safety in performing their functions.

We do not bring new checks and balances into the framework in this Bill, other than we have reinforced in the authorised person provisions the need for the business to look at the competency and the ability to manage the risks posed by the work We have left that with the business in the same way as they currently look at their authorised persons. We have just strengthened that.

Committee comment

Based on the advice received from the Department of Energy and Water Supply and the Department of Health, the committee does not consider the amendment poses public health risks. The committee reiterates the Department's advice that there are stringent water quality and governance regimes that apply to Drinking Water Management Plans under the Water Supply Act that will continue to apply to the installation of water meters as they do to the rest of the water supply network. There are severe penalties for failing to comply with a management plan.⁴⁹

Equity of penalty provisions

The committee heard evidence that a licenced plumber could face an individual penalty for failing to properly install a water meter yet there were no individual penalties for authorised persons.

⁴⁵ Local Government Association of Queensland, Submission No. 69.

⁴⁶ Qldwater, Submission No. 42.

⁴⁷ Department of Energy and Water Supply, Correspondence dated 11 March 2014.

⁴⁸ Department of Energy and Water Supply, Correspondence dated 6 March 2014; Public briefing transcript, 5 March 2014, p 3.

⁴⁹ Department of Energy and Water Supply, Correspondence dated 6 March 2014.

... if the licensed plumber gets it wrong, there is a state regulatory authority that actually holds that licence holder responsible... As a result of that, you actually take disciplinary action against that individual that does the work, and that is a system we support.⁵⁰

There are some very stringent penalties and processes if the water service provider fails to comply with their drinking water quality management plan which is, from a business perspective, all the way from the dam down to the meter...⁵¹

If somebody [an authorised person] is doing shoddy wor[k] for a water service provider then they are going to get training, counselling or be fired.⁵²

We do not have individual penalties for water industry workers and how they do their business.⁵³

The committee understands there are different risk and conceptual frameworks in relation to applying a penalty to an individual licensed plumber compared to a business' authorised person.

The committee finds it difficult to conceptualise that both a licensed plumber and an authorised person could carry out the work at the direction of a water service provider yet face different penalties.

The committee considers further work needs to be undertaken to determine if water industry workers should face individual penalties along the same lines as licensed plumbers for unsafe work.⁵⁴

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.

The submissions to the committee's inquiry raised concerns regarding cross-connections of sewerage and storm water pipes by water service providers in an effort to substantiate possible technical errors water industry workers could make.

The department advised:⁵⁵

Many of the cross-connection incidents outlined by the plumbing industry in their submissions involved plumbers, unlicensed individuals working for plumbing contractors, or did not involve meters at all, and certain details of the incidents are incorrect.

The committee believes these examples and the department's response highlight the need for consideration of individual penalties to provide a suitable deterrent for unsafe work.

With regards to the specific examples of cross-connections provided to the committee, the committee notes that these issues are not strictly relevant to the consideration of the Bill and makes no comment on those matters.

⁵⁰ Plumbers Union Queensland, Public hearing transcript, 17 March 2014, p 5.

⁵¹ Department of Energy and Water Supply, Public hearing transcript, 17 March 2014, p 5.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Public hearing transcript, 17 March 2014, p 27.

⁵⁵ Department of Energy and Water Supply, Correspondence dated 6 March 2014.

Definition of relevant water meter

The plumbing industry suggested the definition of ‘relevant water meter’ was not adequate enough to provide sub-meters would still be considered plumbing work.⁵⁶

The department advised:⁵⁷

*What we have done in the definition of ‘relevant water meter’ is come up with a very technical definition which basically captures all of the main meters. We have used every conceivable form of lot description in paragraphs (a) through to (e) in clause 44 to define what relevant meters are. So they are all conceivable forms of land title and lot description. **By exception, sub-meters are not captured in that.** [Emphasis added]*

The committee is concerned there may be technical connections (such as backflow devices) inside premises that could be worked on by an authorised person. Due to the more technical nature of this work it is assumed that it would be undertaken by a licensed plumber. However, the committee requests the Minister revisit the definition of ‘relevant water meter’ and investigate whether it can be strengthened.

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.

2.2 Water and sewerage connection approvals (utility model)

The Bill proposes to introduce the utility model into the *South-East Queensland Water (Distribution and Retail Restructuring Act 2009)* (SEQ Water Act). The explanatory notes describe the model as ‘a streamlined process for water and sewerage connection approvals ... for SEQ distributor-retailers’.⁵⁸

Under the utility model:⁵⁹

Standard connections with standard conditions apply to simple connections like new houses, while an accredited third party can deal with aspects of the more complicated applications. This approach has been designed to reduce design times, holding costs and delays for developers.

At present, distributor-retailers⁶⁰ operate under a ‘temporary delegated assessment approval process for water and sewerage requested by the Council of Mayors SEQ’.⁶¹ The explanatory notes outline the current process as follows:

⁵⁶ Plumbers Union Queensland, Submission No. 67.

⁵⁷ Public briefing transcript, 5 March 2014, p 9.

⁵⁸ Explanatory Notes, p 17.

⁵⁹ Explanatory Notes, p 4.

⁶⁰ Two distributor-retailers, Unitywater and Queensland Urban Utilities, were established in 2010 to provide retail water supply and sewerage services in South East Queensland. Unitywater is owned by Sunshine Coast Regional Council, Moreton Bay Regional Council and Noosa Shire Council. Queensland Urban Utilities is owned by Brisbane City Council, Ipswich City Council, Lockyer Valley Regional Council, Scenic Rim Regional Council and Somerset Regional Council: Explanatory Notes, p 2.

⁶¹ Explanatory Notes, p 2.

Under the temporary delegated assessment approval process, local governments issued approvals on behalf of distributor-retailers under the Sustainable Planning Act 2009 ... Distributor-retailers were given formal approval powers for water and sewerage components of development applications (i.e. concurrence powers); however, these were mandatorily delegated back to local governments. The local government issued the approval based on technical advice provided by the distributor-retailer. Distributor-retailers could also delegate their powers under the Water Supply (Safety and Reliability) Act 2008 ... for issuing water and sewerage connection approvals.

The explanatory notes state the delegated assessment process ‘was an acceptable temporary solution but was limited by coordination and timing difficulties as well as confusion about roles and responsibilities’.⁶²

qldwater, which represents all non-indigenous local government or local government-owned water and sewerage service providers and 13 of the 17 indigenous local governments and the Gladstone Area Water Board,⁶³ expressed its support for the utility model.⁶⁴ Unitywater told the committee the utility model is an opportunity ‘to implement efficiencies that will reduce the time and cost of approving connections to our water supply and sewerage networks and ultimately facilitate sustainable development ...’.⁶⁵ It made the point, however, that its members were concerned about how the State approaches infrastructure charges. Its members considered it would be best to understand how changes to infrastructure charges would impact on utility revenues before implementing the utility model.⁶⁶

Queensland Urban Utilities ‘strongly supports’ the utility model. It stated the utility model is ‘a vital step towards reducing red tape for the development industry, South-east Queensland Councils and distributor-retailers. Providing a simple single approval to replace the current multiple approvals required to connect new development to water and sewerage services will save time and money for Queensland Urban Utilities and its customers.’⁶⁷

The Urban Development Institute of Australia (UDIA) supported the introduction of the utility model because it ‘presents the opportunity for faster and more streamlined water and sewerage connection approvals’.⁶⁸

Commencement

Schedule of works

It is proposed a distributor-retailer’s board must adopt a schedule of works by 1 July 2014.⁶⁹ Schedule of works, for a distributor-retailer, is defined in the proposed amended Schedule as a schedule including the following information:⁷⁰

- a map of development infrastructure of the distributor-retailer that is to be identified in the schedule as trunk infrastructure,

⁶² Explanatory Notes, p 2.

⁶³ Submission No. 42, p 1.

⁶⁴ Public hearing transcript, 17 March 2014, p 14.

⁶⁵ Public hearing transcript, 17 March 2014, p 18.

⁶⁶ Submission No. 42, p 1.

⁶⁷ Submission No. 33, p 1.

⁶⁸ Submission No. 64, p 1.

⁶⁹ Clause 25 proposes to introduce new section 140 into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

⁷⁰ Clause 26.

- identification of proposed development infrastructure of the distributor-retailer that is to be identified in the schedule as trunk infrastructure (future trunk infrastructure),
- the location, estimated cost and expected time of delivery of future trunk infrastructure.

The schedule of works will cease to have effect when the schedule is incorporated into the distributor-retailer's water netserv plan and the plan takes effect.⁷¹

Interim connections policy

An interim connections policy is to be adopted by an SEQ service provider by 1 July 2014.⁷² An interim connections policy is a water netserv plan to the extent the plan deals with the connections policy under section 99BO(1)(f) of the SEQ Water Act. That is, the interim connections policy must:⁷³

- state the SEQ service provider's policy for connections, disconnections and alterations to its infrastructure networks for its water service and wastewater service (the connections policy), including:
 - the areas (each a connection area) in which the SEQ service provider guarantees to provide connections that comply with its connections criteria to its water service or wastewater service,
 - the areas (each a future connection area) in which the SEQ service provider intends to extend its infrastructure network,
 - the circumstances in which the SEQ service provider may approve connection outside a connection area,
 - the SEQ service provider's criteria for providing connection, with or without conditions, to its water service or wastewater service, and
 - if the SEQ service provider is a distributor-retailer:⁷⁴
 - its criteria and conditions for a standard connection,
 - its criteria for a staged water connection,
 - its criteria for other categories of connections including connections outside of its connection area and its future connection area,
 - the way to apply for a water approval,
 - the categories of connections to which it may delegate its decision function under section 53 (Delegation),
 - the timeframes for its decisions for connections, other than a standard connection,
 - its conditions for when a water approval lapses, and
 - its requirements for construction maintenance and defects liability.

An interim connections policy will cease to have effect when the SEQ service provider's water netserv plan takes effect.⁷⁵

⁷¹ Proposed new section 140(2)(b).

⁷² Clause 25 proposes to insert new section 137 into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

⁷³ Section 99BO(1)(f) of the SEQ Act as proposed to be amended by clause 17.

⁷⁴ Clause 18 proposes to insert new section 99BOA into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

⁷⁵ Proposed new section 137(3).

Water netserv plan

Under clause 14 of the Bill, a SEQ service provider must have adopted a water netserv plan by 1 October 2014.⁷⁶ A water netserv plan provides for the provision of water and sewerage networks and services in its area for at least 20 years.⁷⁷ Chapter 4B of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* sets out the requirements relating to water netserv plans. The Bill proposes to make a number of minor amendments to the process of making or amending a water netserv plan.⁷⁸

Brisbane City Council questioned how the utility model would integrate with council planning and development processes.⁷⁹ The department advised:⁸⁰

The utility model has been designed to run parallel with the Integrated Development System (IDAS) under the SPA. A council will assess planning issues and the impact the development has on land under IDAS as the planning authority. The utility model is a technical assessment about the ability for an applicant to connect to the distributor-retailer's water and sewerage network and the associated costs.

The councils and distributor-retailers will work closely in developing both the council's Priority Infrastructure Plan and the distributor-retailer's Water Netserv Plan...It integrates land use planning undertaken by councils and then plans for water and sewerage infrastructure and includes a distributor-retailer's connection policy. A Water Netserv Plan is required to be consistent with its owner council's planning in its Priority Infrastructure Plan, which includes Priority Infrastructure Areas for growth development.

The committee is satisfied the proposed utility model would take into consideration the required integration between council planning and development processes and the work of distributor-retailers as set out under a water netserv plan.

Timing of commencement of utility model

Some submitters expressed concerns relating to the timing of the commencement of the utility model and their capacity to meet the deadline. qldwater described the timeframes as 'challenging' and the department conceded that they are 'tight', especially the October deadline for the water netserv plans.⁸¹

However, a number of distributor-retailers advised they are working with their councils and the development industry to prepare for the implementation of the utility model. Queensland Urban Utilities expressed its confidence that it will be able to meet the 1 July 2014 timeframe.⁸² Unitywater advised the committee that it is 'well advanced in [its] preparations for the commencement of the utility model on 1 July'.⁸³ It did, however, express concerns that some elements were out of its control.⁸⁴ The department noted there are 'strong drivers' for the relevant local government and the state government to respond quickly.⁸⁵

⁷⁶ Clause 14 proposes to amend section 99BJ of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*. The current date by which a netserv plan is required is 1 March 2014.

⁷⁷ *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, sections 99BJ and 99BM.

⁷⁸ Explanatory Notes, p 6.

⁷⁹ Brisbane City Council, Submission No. 77.

⁸⁰ Department of Energy and Water Supply, Correspondence, 6 March 2014.

⁸¹ Public hearing transcript, 17 March 2014, pp 14 and 24.

⁸² Submission No. 33, p 2.

⁸³ Public hearing transcript, 17 March 2014, p 18.

⁸⁴ Ibid, p 29.

⁸⁵ Ibid, p 24.

Despite its preparations for implementing the utility model, Unitywater recommended the Bill be amended to make provision to extend by a regulation the date by when a water netserv plan must be adopted.⁸⁶

While every effort is being made to meet this timeframe, Unitywater believes there should be scope in the legislation for this date to be extended without a further amending legislation if unforeseen circumstances prevent water utilities from the date.

The department advised this would be unnecessary, as the existing provisions proposed in the Bill 'to have an interim connections policy and a schedule of works will be used until there is a Water Netserv Plan in force.' The department also advised:⁸⁷

The need to extend the timeframe for when a Water Netserv Plan is required is unlikely given the collaborative work that is being undertaken by distributor-retailers with their councils and with the development industry in preparation for implementation of the utility model.

Redlands City Council also requested the adoption of the water netserv plan be delayed until after the SEQ Regional Plan is introduced.⁸⁸ The department disagreed and advised water netserv plans would be able to be updated as necessary and need to be consistent with local government planning assumptions and the SEQ Regional Plan. It was not 'viable' to wait until after the SEQ Regional Plan was introduced, as it is not expected until sometime in 2015.⁸⁹

While the Property Council of Australia (PCA) expressed its support for the water utility model, it was concerned about the water distributor-retailers ability to meet the 1 July 2014 deadline and the implications for the development industry. It suggested a penalty for failure to meet the deadline 'would be to include "step-in" provisions in the Act, allowing the relevant Minister to make decisions on behalf of the water distributor-retailers'. PCA was of the view the provisions could also include 'a cost-recovery mechanism for the Minister to recoup any money spent by the department in undertaking the duties of the water distributor-retailers'. The benefit of this, according to the PCA, would be that it would mean the development industry would still be able to submit their applications for approval.⁹⁰

The department responded to PCA's view that a penalty provision should be included in the Bill as follows:⁹¹

The distributor-retailers are currently working with their councils and with industry reference groups to prepare for commencement of the utility model and are committed to delivering the flexible streamlined benefits the utility model has to offer from 1 July 2014. Distributor-retailers will commence assessing water and sewerage connection applications from 1 July 2014 and it is not appropriate to include in the legislation a penalty for distributor-retailers for failing to implement the utility model. The penalties for service providers who fail to maintain customer service standards and to provide reports and other requested information deal with different matters and the penalties are with an entirely different context.

In terms of consultation on the timeframes for the implementation of the utility model, LGAQ advised it had worked closely with the department and qldwater on key aspects of the Bill.⁹² The

⁸⁶ Unitywater, Submission No. 74.

⁸⁷ Department of Energy and Water Supply, Correspondence, 6 March 2014.

⁸⁸ Redland City Council, Submission No. 51.

⁸⁹ Department of Energy and Water Supply, Correspondence, 6 March 2014.

⁹⁰ Property Council of Australia, Answer to question taken on notice.

⁹¹ Department of Energy and Water Supply, Correspondence, 6 March 2014.

department also advised it had included distributor-retailers and their owner councils and industry as part of the development process of the utility model and the Bill.⁹³

In regards to a request from UDIA that a mandated review of the legislation in 12 months be included in the Bill, the department advised it will identify opportunities for continuous improvement to the model over time.⁹⁴

Brisbane City Council also raised concerns relating to the transitional arrangements proposed under the Bill.⁹⁵ Development applications received before 1 July 2014 will be dealt with under the *Sustainable Planning Act 2009*. Staged development approvals made before 1 July 2014 'are to be taken as a staged water connection (for the water and sewerage aspects only). Subsequent development applications which would have been dealt with under the Sustainable Planning Act for these staged developments for water and sewerage aspects will instead be dealt with as a staged water connection application'.⁹⁶ BCC recommended a sunset clause under which the transitional process for development applications for water and sewerage matters still dealt with under the SPA is to be time limited to 31 December 2014. The department responded:⁹⁷

The current transitional arrangements are supported by industry, distributor-retailers and the majority of councils. The current approach under which applications which were received before the commencement of the utility model are to continue to be dealt with under SPA (with the exception of staged development applications and approvals) is consistent with the usual approach for transitioning to a new framework.

Committee comment

The committee is confident the department's consultation process on the utility model provided distributor-retailers with sufficient time to consider the timeframes and implications of the implementing the utility model. The committee also supports the work distributor-retailers are doing in preparation for its implementation.

In regards to the inclusion of a penalty provision for distributor-retailers who fail to meet the implementation deadline for the utility model, the committee supports the department's view that distributor-retailers are working to meet the deadlines and penalties would be unnecessary.

The committee also supports the department's assurances of continued consultation on the utility model and transitional provisions.⁹⁸

Work with the distributor-retailers and industry through implementation to identify any opportunities for continuous improvements [to the utility model] and the progression of any legislative changes to facilitate these. An independent review of the utility model could be undertaken in the first 12 to 18 months in relation to any significant implementation issues including in relation to the application of the transitional provisions.

2.2.1 Infrastructure

Proposed new Part 2 (Water approval) of proposed new Chapter 4C (Water approvals and infrastructure) of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

⁹² Local Government Association of Queensland, Submission No. 69.

⁹³ Department of Energy and Water Supply, Correspondence, 6 March 2014.

⁹⁴ Ibid.

⁹⁵ Brisbane City Council, Submission No. 77.

⁹⁶ Explanatory Notes, p 7.

⁹⁷ Department of Energy and Water Supply, Correspondence, 6 March 2014.

⁹⁸ Ibid.

would bring together the water and sewerage components which are currently on a development application under the *Sustainable Planning Act 2009* and connection requirements under the Water Supply Act.⁹⁹ Proposed new Part 2 provides for water approval conditions and charges, and standard connections. Proposed new Part 7 provides for water infrastructure charges.

The PCA stated it would reserve its comments on the parts of the Bill that relate to infrastructure charges for distributor-retailers as it expects they will be amended following the current infrastructure charging review being undertaken by DSDIP. For this reason, PCA recommended the committee consider the current review of the *Sustainable Planning Act 2009* (SPA) and any parts of the legislation that may need to be reviewed in relation to water and wastewater infrastructure conditions, adopted infrastructure charges and notices, and water infrastructure agreements.¹⁰⁰

The UDIA also recommends 'further legislative amendments be made later in the year to ensure consistency with the new planning legislation.'¹⁰¹

The department advised it was working with other State agencies involved in the review of the SPA and will work with the Department of State Development, Infrastructure and Planning (DSDIP) 'to make any necessary changes from the review that are relevant for the utility model.'¹⁰²

The committee is satisfied DEWS will continue to work with DSDIP on matters relating to the Bill and the review of the SPA.

In regards to adopted infrastructure charges, Moreton Bay Regional Council (MBRC) recommended the amendment of a transitional provision to provide that an adopted infrastructure charge of a distributor-retailer carries over under the utility model until a new adopted infrastructure is made by a distributor-retailer's board. In particular, MBRC requested the new provision make it clear that the adopted infrastructure charge only relates to the distributor-retailer's component.¹⁰³

The department responded to MBRC's recommendation as follows:¹⁰⁴

Currently, local governments and distributor-retailers share the maximum adopted infrastructure charge set under the State planning regulatory provision (adopted charges) under the SPA. Consequently the existing adopted infrastructure charge of the distributor-retailer is already limited under the SPA to the distributor-retailer's proportion of the adopted infrastructure charge and does not cover the local government's proportion of the adopted infrastructure charge. Similarly the distributor-retailer's board decision powers for making a new adopted infrastructure charge under the utility model are limited to the distributor-retailer's proportion of the adopted infrastructure charge and it does not cover the local government's proportion of the adopted charge.

*For new board decisions under the utility model see s 99BRCI and s 99BRCG of the Bill – the effect of which is that a distributor-retailer's board cannot adopt a charge more than its relevant proportion of the maximum adopted infrastructure charge. For previous board decisions under SPA see 755KA and Schedule 3 of "relevant proportion" of the SPA. **There is no need for further legislative provisions.** [Emphasis added]*

The committee is satisfied with the department's response to the concern raised by MBRC and the department's conclusion that no further legislative provisions are required.

⁹⁹ Explanatory Notes, pp 26 -27.

¹⁰⁰ Property Council of Australia, Submission No. 75.

¹⁰¹ Urban Development Institute of Australia, Submission No. 64.

¹⁰² Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹⁰³ Moreton Bay Regional Council, Submission No. 73.

¹⁰⁴ Department of Energy and Water Supply, Correspondence, 6 March 2014.

MBRC also raised the issue of the timing for payment of 'adopted infrastructure charges'.¹⁰⁵ The department advised:¹⁰⁶

The timing is consistent with the current approach in the SPA and has been developed with DSDIP. The infrastructure review being conducted by the department is considering changes to the times for payment of infrastructure charges and any changes would be applied to the utility model before its commencement.

2.2.2 Appeals and internal reviews

Proposed new Part 4 of new Chapter 4C of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* deals with appealable decisions under the utility model. The explanatory notes state that appealable decisions relate to 'applications for connections and charges imposed by distributor-retailers, and decisions of a distributor-retailer or water connection officer to give a water connection compliance notice'.¹⁰⁷

Certain appeals are made to a Building and Development Dispute Resolution Committee¹⁰⁸ and certain appeals are made to the Planning and Environment Court.¹⁰⁹ However, an appeal of an original decision must first proceed to internal review.¹¹⁰

Unitywater submitted the Bill does not provide an appeal mechanism in the event that endorsement of the netserv plan and/or interim connections policy is for whatever reason withheld by the Planning Minister and/or the participating council.¹¹¹

The department advised:¹¹²

The Bill already provides in clause 20 s 99BR(2), (4) and (5) that a participating council must endorse the plan if it is consistent with its planning assumptions and that the Planning Minister must endorse the plan if it is consistent with the SEQ Regional Plan. Further that in the event that they have not refused to endorse the plan or asked the distributor-retailer to change the plan, within 30 business days after receiving it, that is taken to have endorsed it. The Planning Minister's role is only to endorse that the Water Netserv Plan is consistent with the SEQ Regional Plan. The owner council's role is only to endorse that the Water Netserv Plan is consistent with its planning for future growth.

Further legislative provisions are not required for an appeal or arbitration in the legislation.

The committee is satisfied with the department's response.

¹⁰⁵ Moreton Bay Regional Council, Submission No. 73.

¹⁰⁶ Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹⁰⁷ Explanatory Notes, p 32.

¹⁰⁸ Proposed new Division 3 of proposed new Part 4 of proposed new Chapter 4C of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (clause 21).

¹⁰⁹ Proposed new Division 4 of proposed new Part 4 of proposed new Chapter 4C of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (clause 21).

¹¹⁰ Clause 21 proposes to insert new section 99BRAY in the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

¹¹¹ Unitywater, Submission No. 74.

¹¹² Department of Energy and Water Supply, Correspondence, 6 March 2014.

2.3 Regulation of water and sewerage service providers

2.3.1 Overview

The Bill proposes to transform the regulation of water and sewerage service providers by moving the focus of the regulatory framework 'from process to outcomes and transparency.' The Bill would achieve this in the following ways:¹¹³

- removing the requirement under the *Water Supply (Safety and Reliability) Act 2008* (WSA) for water and sewerage service providers (WSSPs) to produce a range of 'prescriptive' management plans, and replace them with a performance reporting framework of annual reports on key performance indicators (KPIs),¹¹⁴
- requiring WSSPs consult on and publish customer service standards,
- the department publishing an annual comparative report on the water sector following consultation with the industry,
- outlining a process for the regulator to monitor performance, trigger investigations and require improvement plans, or in crisis situations, direct providers to undertake actions to address an imminent threat to water security or continuity of supply,
- removing the requirement under the WSA for WSSPs to pass on water consumption data to tenants to reduce regulatory burden, and
- making an amendment to enable a drinking water service provider to make minor amendments to a drinking water quality management plan without requiring a full regulatory approval of the updated plan.

2.3.2 Key performance indicator framework

A small number of submitters raised several points regarding the removal of the requirement for WSSPs to produce a number of management plans and their replacement with an annual performance report on KPIs. The department advised the purpose behind the proposed move towards a combined annual report on performance and the publication of an industry-wide comparative report would be to 'promote business monitoring and drive continual improvement'.¹¹⁵

The department further stated:¹¹⁶

...it removes prescriptive, generic regulatory plans which many providers said they did not use. Service providers can instead focus on developing plans that reflect their customer needs, address their risks and manage their operations effectively. The KPI framework will support a proper focus on outcomes and will include indicators about available water, water use, incidents, customer connections, and spending on maintenance and renewals. Service providers will be due to report on indicators for the 2014-15 year by 1 October 2015, and a water sector comparative report will be published by early 2016 after the first reporting cycle is complete.

Most WSSPs generally supported this proposal and agreed that it would provide a means of improving business efficiencies and reducing red tape for the industry. qldwater advised the requirement to produce these plans had been 'at great cost' to the industry and were 'conceived

¹¹³ Explanatory Notes, p 7.

¹¹⁴ Prescriptive management plans include strategic asset management plans, system leakage management plans, outdoor water use conservation plans and drought management plans: Explanatory Notes, p 7; Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

over time in an ad hoc and uncoordinated fashion.’ qldwater also advised that the department had consulted with the industry in developing the key performance indicator framework for the annual reports and that similar reporting processes have existed in other jurisdictions, including New South Wales, for some time.¹¹⁷

Cairns Regional Council (CRC) agreed that the proposed amendment would ‘reduce compliance related activities’ but that the ‘production of such plans still represent “best trade practice” for a capable water service provider. For this reason, CRC advised that it supported:¹¹⁸

a structure that retained an obligation to have such plans, removed the requirements for annual reports, audits and reviews, but retains a broad power for DEWS to requisition a provider if the plans were considered to be manifestly inadequate or outdated.

LGAQ also expressed its support for the proposed amendments that would remove the mandatory requirements for WSSPs to provide system leakage management plans, drought management plans, outdoor water use conservation plans and strategic asset management plans. However, LGAQ also highlighted the need for WSSPs to continue to plan for the management of these matters:¹¹⁹

...we do believe that it is incumbent upon councils to undertake good strategic planning for their water supply systems. In relation to the current legislative planning requirements such as drinking water quality management plans and customer service standard plans, we do see it as important that state and local governments work together in ensuring fit-for-purpose planning across the extensive state.

The department supported the view that the proposed removal of these management plans should not replace the need for planning.¹²⁰

The proposed performance reporting framework does not preclude providers from undertaking their own management planning (in fact this is good business practice), and performance monitoring can be used to effectively focus planning and improvements. Local government providers are required to prepare asset management plans under the Local Government Act 2009 and the proposed performance reporting framework complements these plans.

Further, the department stated:¹²¹

So in terms of the local government plans, we are strongly suggesting that they should still manage their assets, should still prepare for droughts, but we are looking to monitor the outcomes of those processes rather than the process.

One water service provider advised its board would continue maintaining the plans despite the removal of the requirement to produce them under the WSA.¹²²

Whilst the requirement for submitting reviews and audits on the Strategic Asset Management Plan, System Leakage Management Plan, Drought Management Plan and the Outdoor Water Use Conservation Management Plan will be removed, the board will maintain such documents as tools for monitoring performance and goal setting.

According to the department, the proposed replacement of these plans with the requirement to report on key performance indicators would result in a more individual approach to reporting on

¹¹⁷ qldwater, Submission No. 42.

¹¹⁸ Cairns Regional Council, Submission No. 63.

¹¹⁹ Local Government Association of Queensland, Public hearing transcript, 17 March 2014, p 14.

¹²⁰ Explanatory Notes, p 8.

¹²¹ Public briefing transcript, 5 March 2014, p 11.

¹²² Glamorgan Vale Water Board, Submission No. 45.

outcomes and performance rather than reporting to 'a set of prescriptive George Street guidelines that are one size fits all and submitted as a regulatory compliance tick'. The department submitted that the use of management plans to identify trends and issues arising in water service provision was flawed and compounded by the fact the plans are often completed by consultants and contractors and are, therefore, not seen as being 'owned' by the water business.¹²³

The department argued the Bill's provisions for WSSPs to consult on and publish customer service standards and annual reports based on their performance against the key indicators, as well as the requirement for the department to publish an annual comparative report on the water sector, would be more effective in improving and assessing performance. The Bill would also provide the regulator with a broader understanding of WSSPs:¹²⁴

One of the key benefits of the key performance indicators is actually back to the business. They actually for the first time are having to report on a number of indicators that give them a sense of where they are going good or where they are going not as good; so about the number of connections, leaks, customer complaints, all those sorts of things. It actually enables the water regulator through our department to have a better understanding of early trends or early warnings, and it may not be that it is evident that it is poor planning, but it may well be that there have been a number of customer complaints that have peaked dramatically. That may be enough to trigger a request back out to councils to say 'There seems to be a real spike in your number of customer complaints. What is going on?' It does enable the regulator to have that early warning and early understanding and probably a broader view of what the water businesses are doing, so it is from connections to infrastructure maintenance. It may well be their maintenance program seems quite low compared to another similar sized water service provider, so it is actually better information out there. It is also information that, through the comparative report, a customer of the water service provider will see for the first time and they may actually ask questions.

The department further advised proposed KPI framework would assist in the long-term planning process of WSSP.¹²⁵

While qldwater supported the reduction of red tape for the industry, it advised that it had not advocated for the complete removal of strategic asset management plans, system leakage management plans, drought management plans and outdoor water use conservation management plans but rather had recommended the adoption of a 'streamlined, fit-for-purpose Water and Sewerage Plan supported by legislation.' qldwater believes the complete removal of these plans would also remove the support and expertise the State has provided to small and remote councils who require assistance.¹²⁶

The department argued compiling the information from the annual reports into the public comparative report would then highlight any issues and provide the regulator with the information needed to take action and liaise with the WSSP if required.¹²⁷

The explanatory notes stated that a separate process was being progressed in consultation with the Department of Justice and Attorney-General to introduce penalty infringement notice offences in order to improve compliance with the Water Supply Act.¹²⁸

¹²³ Public briefing transcript, 5 March 2014, pp 10-11.

¹²⁴ Explanatory Notes, p 7; Public briefing transcript, 5 March 2014, pp 11-12.

¹²⁵ Public briefing transcript, 5 March 2014, p 12.

¹²⁶ qldwater, Submission No. 42.

¹²⁷ Public briefing transcript, 5 March 2014, p 12.

¹²⁸ Explanatory Notes, p 8.

Committee comment

The committee recognises the objective of reducing regulatory burden on water service providers behind the proposed removal of the requirements for WSSPs to provide a number of management plans. The committee supports the views of the department and some submitters that the removal of the requirement to produce the plans 'does not replace the need for good planning by service providers'.¹²⁹

The committee understands that drinking water and sewerage service providers would be required to report annually on a number of indicators, including available water, water use, incidents, customer connections, and spending on maintenance and renewals. The committee is unclear, however, how service providers under the proposed Key Performance Indicator framework would report on their planning for and management of system leakage, droughts and outdoor water use. The committee is concerned the removal of the requirement to produce these plans may result in inadequate consideration of these matters by service providers.

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.

In relation to concerns raised regarding the removal of water service providers to provide strategic asset management plans, the committee notes the department's statement that the proposed performance reporting framework will complement the asset management plans that are currently required for local government providers under the *Local Government Act 2009* (LGA). The committee seeks clarification on how the annual reports from drinking water and sewerage providers would align with the requirements under the LGA.

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*.

Further, the committee shares qldwater's concern that the proposal to remove of requirement for service providers to produce a number of mandated management plans may lead to the removal of support and expertise the State Government currently provides to small and remote councils. The committee is unclear whether the government uses the information currently provided in the management plans to assist in determining which water service providers, including small and remote councils, require support in the delivery of their water and sewerage services. If this information is currently used to determine the provision of support to water service providers, the committee seeks clarification whether this practice will continue and the information used to decide to provide support. The committee also seeks an assurance 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.

¹²⁹ Department of Energy and Water Supply, Correspondence, 6 March 2014.

Point for clarification 3

The committee seeks clarification from the Minister for 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.

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.

The committee notes that a separate process is being progressed with the Department of Justice and Attorney General to introduce penalty infringement notice offences to improve compliance with the Water Supply Act but is not clear on how and when these notices will be implemented.¹³⁰

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.

Total Water Cycle Management Plans

The Bill proposes to use the performance reporting framework to monitor indicators of environmental performance of WSSPs, in place of the former requirement under the *Environmental Protection (Water) Policy 2009* (EPP) for local governments to prepare total water cycle management plans.

qldwater is concerned that the removal of the total water cycle management plans under the *Environmental Protection (Water) Policy 2009* will result in 'no legislative framework to support the development of a whole of urban water cycle approach to planning and management.'¹³¹

The department advised that these consequential amendments were necessary to reflect changes made to the EPP.¹³²

¹³⁰ Explanatory Notes, p 8

¹³¹ qldwater, Submission No. 42.

¹³² Department of Energy and Water Supply, Correspondence, 6 March 2014.

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.

2.3.3 Water advice notices

Clause 70 of the Bill proposes to omit the requirement for water service providers to pass on water consumption data to tenants to remove unnecessary regulatory burden.¹³³

The Cairns Regional Council supported the removal of this requirement as the ‘production of these notices is expensive and largely ineffective’.¹³⁴ However, the Queensland Council of Social Service (QCOSS) was concerned this amendment would place tenants at a disadvantage and result in no access to a source of information regarding a tenant’s water usage. According to QCOSS, the situation is exacerbated as tenants cannot query meter readings, water use or potential concealed leaks with the service provider. Tenants are reliant on their lessor/agent to pass on the information ‘without malice.’ QCOSS strongly supported section 139 of the WSA remain:¹³⁵

While it is a regulatory burden to the water providers for issuing the advice notice, the marginal costs of doing this are likely to be very low and not an impost on prices as they are recovered from across a large customer base. There are overwhelming benefits to society of retaining this section, particularly to tenants in allowing them to better understand and monitor their water usage, and by greater extension take greater control over their cost of living expenses.

QCOSS also submitted concerns relating to the consultation on the proposed amendment.¹³⁶

QCOSS is not aware of any consultation with consumer groups in the development of the proposed amendment to remove Sc 139.

The department advised that the water advice notices currently required under s 139 of the WSA are ‘a substantial administrative burden on water service providers’. The department submitted that water advice notices are often ‘ineffective’ as water service providers do not know whether the occupier of a property is the owner or not, which often results in the notices addressed to ‘Dear Occupier’ being ‘binned as junk mail.’ Additionally, as water service providers often do not have access to owner/occupier information, they would have to provide a water notice to every premise to ensure compliance.

The department disagreed with QCOSS regarding the role notices play in providing water consumption information to tenants. The department advised notices were not the sole source of information for tenants, as tenants are able read their own meters to track their water usage and identify potential leaks.¹³⁷

¹³³ Explanatory Notes, p 8. Refer to Section 139 of the Water Supply Act, which states that a water service provider must give a notice to an occupier of the premises when the owner of the residential premises is not the occupier. The water advice must state the volume of water supplied to the premises during each billing period for the premises. A penalty applies for non-compliance.

¹³⁴ Cairns Regional Council, Submission No. 63.

¹³⁵ Queensland Council of Social Services, Submission No. 49.

¹³⁶ Ibid.

¹³⁷ Department of Energy and Water Supply, Correspondence, 6 March 2014; Public briefing transcript, 5 March 2014, p 2.

The department also responded to QCOSS's concerns that tenants would not be provided with their water consumption details:¹³⁸

The Residential Tenancies Authority website states that lessors will receive the water Bill and should provide the tenants with a copy of water bills or evidence of water consumption to verify the amount to be charged. Tenants must be given one month to pay any water bill after receiving the notice from the lessor or agent.

In this regard, the department advised a 'tenant who is paying a water bill is already able to get consumption information.'¹³⁹

The department clarified which tenants would be entitled to receive a copy of information relating to their water usage:¹⁴⁰

Boarding rooms are unlikely to be examples of where tenants are actually paying for water consumption because in order for a tenant to pay water consumption the premises has to be water efficient and individually metered. A lot of boarding houses are not individually metered. Also the requirement to pay consumption charges has to be in the tenancy agreement.

Water usage dispute between tenants and landlords has been raised as an issue with the department and advised it would:¹⁴¹

... undertake more detailed consideration about whether the tenant should in fact be billed directly for water consumption, rather than have the costs passed through the landlord – noting that this is a highly contentious issue for both groups.

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.

Committee comment

The committee supports the removal of section 139 from the *Water Supply (Safety and Reliability) Act 2008* for the purposes of reducing administrative burden on water service providers. The committee recognises the provision of these notices may have been ineffective given the difficulties for water service providers to identify if the owner of a property is also the occupier. The committee appreciates the concerns raised by QCOSS relating to the need for tenants to have access to their water usage information in order to have control over their expenses. The committee supports the department's undertaking that it will consider the process for sharing the costs of water services between tenants and landlords in more detail.

¹³⁸ Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹³⁹ Public briefing transcript, 5 March 2014, p 2.

¹⁴⁰ Ibid, p 13.

¹⁴¹ Department of Energy and Water Supply, Correspondence, 6 March 2014. The department provided further information on this during the public hearing, see: Public hearing transcript, 17 March 2014, p 30.

2.3.4 Audits of performance

Clause 62 of the Bill proposes to insert a new section 108A in the *Water Supply (Safety and Reliability) Act 2008*, which would require a ‘qualified auditor’ undertake an audit of a water service provider and provide that information to the regulator. The Queensland Audit Office (QAO) was concerned the term, ‘qualified auditor’ under clause 108A(2)(a) was not defined and therefore ambiguous.

Under the *Auditor-General Act 2009*, the Auditor-General is required to audit state and local government entities, who are often water service providers. QAO submitted the definition of ‘qualified auditor’ is unclear in terms of whether the Auditor-General would be responsible for auditing the performance of local government entities on their provision of water services.¹⁴²

The department advised:¹⁴³

The audit provisions in the Bill are intended to cover all relevant service providers regardless of the corporate form of the water service provider. Although most are public sector entities, there are some private companies providing services, and the entire regulatory framework has to cater for both. The drafting intent was that the Queensland Audit Office could undertake the audit of the accuracy of the performance reports for local government entities, and the Department will be working with the Audit Office on implementing the Bill.

The department explained its reasoning for keeping the term, *qualified auditor*, ‘relatively undefined’.¹⁴⁴

...because it is going to be a judgement in developing the guidelines as to exactly what we mean by a qualified auditor. Whether it is for those water service providers who are in fact private sector providers, of whom we have a handful, and may choose to use an engineering style auditor for this work rather than their financial auditor. Local governments are very clearly going to be using the Auditor-General and his folks. We have had to keep it relatively broad on that and relatively broad to hook into the national performance report framework that we are aligning with as well.

QAO also had concerns relating to the development of the framework that would be used to prepare performance reports:¹⁴⁵

The ability to conduct an audit and issue an appropriate opinion on the performance information as required by s.108A will also depend on the development of an appropriate framework for preparing the performance report.

While the QAO noted the department’s current work on developing a performance reporting framework against which water service providers would report, QAO recommended the performance reporting framework being developed by the department include the measures used in QAO’s Report to Parliament 7: 2013-14 *Results of audit: Water sector entities 2012-13*.

The department advised the committee that further meetings with the QAO were scheduled to ‘discuss the level of evidence we will put underneath the KPIs in terms of allowing providers to understand what they are going to have to go through to gather evidence to support their estimates or their calculations to satisfy the auditors.’¹⁴⁶

¹⁴² Queensland Audit Office, Submission No. 50.

¹⁴³ Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹⁴⁴ Public hearing transcript, 17 March 2014, p 30.

¹⁴⁵ Queensland Audit Office, Submission No. 50.

¹⁴⁶ Public hearing transcript, 17 March 2014, p 30.

Committee comment

The committee is satisfied with the department's response to concerns from QAO relating to the definition of 'qualified auditor'. The committee agrees that the 'qualified auditor' needs to be broad enough to incorporate both private sector and local government water providers. The intention of the Bill is to continue having local governments and their water services audited by the Auditor-General.

The committee is also satisfied with the department's response to concerns regarding the development of the framework which would be used in preparing an audit report on performance. The committee supports the collaboration between QAO and the department in relation to the development of the key performance indicators and recommends that it is ongoing and will separately be raising this matter with the Auditor General in future meetings.

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.

2.4 Regulation of recycled water providers

The explanatory notes state the current recycled water regulatory framework 'does not significantly differentiate between recycled water schemes on the basis of risk.' All schemes regardless of their high or low exposure uses require an approved recycled water management plan or an exemption, and are required to monitor water quality and report to the regulator. The department argued this poses an unnecessary regulatory burden, is not proportionate to the risk posed by lower exposure uses to public health, and discourages providers from supplying recycled water.¹⁴⁷

The Bill would:¹⁴⁸

- remove the requirement for recycled water providers that supply recycled water for lower exposure uses to have approvals under the WSA,
- require only recycled water schemes declared to be 'critical schemes' and schemes with the potential to expose people to ingestion of significant quantities of recycled water (higher exposure schemes) to have a recycled water management plan under the Water Supply Act,
- provide the regulator with the power to make a regulation that requires providers of other types of schemes to prepare a recycled water management plan if there is evidence of a public health risk posed by such schemes, and
- provide mechanisms to assist in public health surveillance, including a proposed new register of recycled water schemes that would provide information to the Department of Health about where water recycling activities are occurring; provision for both regulators (the Department of Health and DEWS) to address public health risks that may arise; and the publication of the registered schemes on DEWS's website.

¹⁴⁷ Explanatory Notes, pp 3, 8: Examples of higher exposure schemes include those that: supply recycled water by way of a dual reticulation system; or supply recycled water for irrigation of minimally processed food crops.

¹⁴⁸ Explanatory Notes, pp 8-9.

In terms of risks to public health, the explanatory notes state all recycled water providers will still be required to supply recycled water that is 'fit for use' under the *Public Health Act 2005 (Public Health Act)*.¹⁴⁹ The department advised that 'strict' penalties apply if a water service provider knowingly supplies recycled water that is not 'fit-for-purpose'.¹⁵⁰

qldwater supported the proposed changes that would remove the requirement for lower risk recycled water schemes to develop recycled water management plans. qldwater stated that 'the costs of compliance have historically made the use of recycled water untenable for many otherwise viable schemes.' According to qldwater, simplifying regulation will 'assure the future of low risk irrigation schemes' and be a positive step in ensuring water security, given the important role recycled water will play in the future.¹⁵¹

The LGAQ also supported the regulatory reduction for low risk recycled water service providers, as it would reduce the administrative burden on councils and the cost of supplying this service.¹⁵²

Committee comment

The committee did not receive any evidence opposing the proposed regulatory reduction for recycled water service providers that provide recycled water for low risk purposes. The committee is satisfied that the proposed amendment would reduce the administrative burden for recycled water service providers and may contribute to lower costs in providing this service.

2.5 Operation of distribution and water retail business in South East Queensland

One of the policy objectives of the Bill is to reduce red tape and make local governments more autonomous. The Bill proposes to achieve this by amending the *South-East Queensland (Distribution and Retail Restructuring) Act 2009 (SEQ Water Act)* to improve the operation of SEQ water service providers by:¹⁵³

- removing the requirement for distributor-retailers and councils to publish draft prices outside their normal budget cycle, and
- increasing the number of councillors allowed on distributor-retailer boards to ensure equal representation of each participating local government.

The explanatory notes provide an example where increasing the number of councillors allowed on distributor-retailer boards would provide equal representation of local governments: Queensland Urban Utilities has five participating local governments; however, the SEQ Water Act currently only allows three councillors on the board.¹⁵⁴

In regards to the current requirement for draft water and sewerage charges to be published in March each year (for implementation in July), the explanatory notes state the amendment is required as withdrawn councils will find it difficult to meet this timeframe because it does not align with their budget processes under the *Local Government Act 2009*.

The committee noted submitters provided only minor comments on this objective. LGAQ stated its support of the objective 'as it will allow shareholding councils much greater say in the operational

¹⁴⁹ Explanatory Notes, p 8.

¹⁵⁰ Department of Energy and Water Supply, Correspondence, 6 March 2014.

¹⁵¹ qldwater, Submission No. 42.

¹⁵² Local Government Association of Queensland, Submission No. 69.

¹⁵³ Queensland Parliament, Record of Proceedings, 11 February 2014, p 51.

¹⁵⁴ Explanatory Notes, p 3.

aspects of the distributor entities, whilst maintaining the independence of the Board.¹⁵⁵ qldwater stated:¹⁵⁶

We offer no comments on these provisions impacting SEQ distributor-retailers in isolation as they are generally supported by members.

The committee supports the proposed amendments to the SEQ Water Act to increase the number of councillors allowed on distributor-retailer boards and remove the requirement for service providers to publish draft prices in March each year, and believes these amendments will support the policy objective of the Bill to reduce the regulatory burden for water service providers.

2.6 Appeal provisions relating to dam safety matters

The Bill proposes to amend the *Water Supply (Safety and Reliability) Act 2008* (WSA) to streamline the review and appeal provisions of the WSA to direct all appealable decisions relating to dam safety matters to the Planning and Environment Court. The explanatory notes provided the reasoning behind the proposed amendment:¹⁵⁷

Appeal provisions for decisions concerning dam safety matters are inconsistent under the Water Supply Act. One appealable decision regarding emergency action plans (inserted as a result of the Queensland Floods Commission of Inquiry) is not specifically dealt with by the appeal provisions. The appeal provisions of the Water Supply Act need to be updated to ensure consistency and to clarify that all appealable decisions relating to dam safety matters are directed to the Planning and Environment Court.

The department advised:¹⁵⁸

Essentially when we made a series of changes after the flood commission of inquiry we ended up with some provisions that pointed away from the Planning and Environment Court. So we have now moved to streamline all of those and catch them all so that all of the appeals are in the one court, essentially.

The committee did not receive any commentary relating to this policy objective of the Bill and supports the Bill's proposed amendment to streamline the appeal provisions of the *Water Supply (Safety and Reliability) Act 2008* to direct all appealable dam safety decisions to the Planning and Environment Court.

2.7 Repeal of the *Metropolitan Water Supply and Sewerage Act 1909*

The Bill proposes to repeal the *Metropolitan Water Supply and Sewerage Act 1909* (Metropolitan Water Act) for the purpose of red tape reduction. The explanatory notes make the case for the repeal of the *Metropolitan Water Act*, given the Act established and governed the operations of the Metropolitan Water Supply and Sewerage Board, which was disestablished in 1928 and its powers assigned to the Brisbane City Council. The provisions of the Metropolitan Water Act have been progressively superseded by more contemporary legislation (most recently the *Water Supply (Safety and Reliability) Act 2008*, the *South East Queensland (Distribution and Retail Restructuring) Act 2009* and the *City of Brisbane Act 2010*.¹⁵⁹

¹⁵⁵ Local Government Association of Queensland, Submission No. 69.

¹⁵⁶ qldwater, Submission No. 42.

¹⁵⁷ Explanatory Notes, pp 4 and 9.

¹⁵⁸ Public hearing transcript, 17 March 2014, p 29.

¹⁵⁹ Explanatory Notes, pp 4 and 9.

The committee did not receive any evidence relating to this objective. The committee supports the department's view that the repeal of the *Metropolitan Water Supply and Sewerage Act 1909* is a positive step for regulatory reform and red tape reduction.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of the fundamental legislative principles to the Bill. The committee considers that a number of the clauses in the Bill raise issues of fundamental legislative principle and, accordingly, brings the following issues to the attention of the Legislative Assembly.

3.1 Rights and liberties of individuals

3.1.1 *Administrative powers are sufficiently defined and subject to review*

Standard connections

Clause 21 of the Bill proposes to insert chapter 4C, part 4 into the *South-East Queensland (Distribution and Retail Restructuring) Act 2009*, and allows for internal review and appeals to the Building and Development Dispute Resolution Committee, as well as the Planning and Environment Court. However, no internal review or right of appeal has been provided for standard connections. The explanatory notes state that a standard connection is for ‘simple connections that meet the standard criteria (e.g. connection to a single house)’.¹⁶⁰ The purpose of the standard connections is to:¹⁶¹

Provide a quick streamlined approval for minor matters (simple connections). If the applicant does not meet the criteria for a standard connection, they will still be able to apply to a distributor-retailer for a water approval which has both internal review and appeal rights. Judicial Review has not been excluded.

Fundamental legislative principles require that there should be a review or appeal against the exercise of administrative power.¹⁶² It may be the case that a standard connection will be the most highly sought after connection given the example provided (connection to a single house). It would therefore be desirable for a review process to be in place for applicants who genuinely believe they should have a standard connection.

The department advised:¹⁶³

... the approach for standard connections is justified. A standard connection must be granted by a distributor-retailer if the person complies with a distributor-retailer’s criteria for standard connections in the distributor-retailer’s connections policy. The standard conditions that apply to such a standard connection are also included in the distributor-retailer’s connections policy.

An applicant, prior to making an application for a standard connection will have access to the distributor-retailer’s connections policy. The connections policy is required to be consulted on publicly before its finalisation and once finalised will be an easily accessible document made available in the public domain for applicants to refer to prior to

¹⁶⁰ Explanatory Notes, p 13.

¹⁶¹ Ibid.

¹⁶² Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 19.

¹⁶³ Department of Energy and Water Supply, Correspondence, 18 March 2014.

submitting their standard connection application. Therefore, an applicant will know prior to making an application if it will meet the documented and published distributor-retailer's criteria for standard connections. If they do not meet the criteria for a standard connection, they will be able to apply to a distributor-retailer for a water approval which has both internal review and appeal rights to the Building and Development Dispute Resolution Committee and the Planning and Environment Court.

The committee is satisfied with the department's response.

Decision criteria

Clause 21 of the Bill also inserts new section 99BRAG which provides that, in deciding an application for water approval, a distributor-retailer must make the assessment against the decision criteria stated in its connections policy. Clause 18 proposes to insert new section 99BOA(a) into the SEQ Water Supply Act which details matters which must be included in the connections policy. Clause 25 requires that distributor-retailers must have a connections policy by 1 July 2014. The explanatory notes state that distributor-retailers 'are well aware of this obligation'.¹⁶⁴

Fundamental legislative principles provide that legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined. The OQPC Notebook states:¹⁶⁵

Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision.

The former Scrutiny of Legislation Committee took issue with provisions that did not sufficiently express the matters to which a decision-maker must have regard in exercising a statutory administrative power.¹⁶⁶

The explanatory notes state the Bill provides for 'some assessment criteria being included in the connection policy'.¹⁶⁷ Further, the connections policy goes through a public consultation process which considers submissions made in relation to the policy. However, the explanatory notes concede there has not been broad community consultation on the Bill.¹⁶⁸

It is arguable that sufficient scrutiny of the connections policy does not occur.

The department advised:¹⁶⁹

... it is considered that including decision criteria in a connections policy is justified. The connections policy is required to undergo a thorough public consultation process. There is also a requirement for the distributor-retailer to publicly consult on any minor or significant changes to the connections policy. The Bill also states what matters can be included in the connections policy, so the legislation does include defining matters for the connections policy. The Bill also details other decision rules which apply to the assessment. The rationale for including decision criteria in a connections policy as well, was to provide

¹⁶⁴ Explanatory Notes, p 14.

¹⁶⁵ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 15.

¹⁶⁶ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 15 citing Scrutiny Committee Annual Report 1998-1999, para. 3.10.

¹⁶⁷ Explanatory Notes, p 13.

¹⁶⁸ *Ibid*, p 14.

¹⁶⁹ Department of Energy and Water Supply, Correspondence, 18 March 2014.

flexibility for changing circumstances in the distributor-retailer's geographic area and as well as any technical changes for different approvals.

The committee is satisfied with the department's response.

3.1.2 Delegation of administrative power

Clause 4 proposes to amend section 53 of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* enabling a distributor-retailer the ability to delegate its functions to a participating local government. Clause 4(2) provides that a chief executive officer of a distributor-retailer may delegate their powers to a participating local government who may then sub-delegate to an 'appropriately qualified person'. Schedule 1 to the *Acts Interpretation Act 1954* defines an appropriately qualified person as someone with the 'qualifications, experience or standing appropriate to perform the function or exercise the power.'

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined. Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision.¹⁷⁰

The department advised:¹⁷¹

The committee can be satisfied that the delegation of the powers are carried out by an appropriate person as these powers would be delegated to the distributor-retailer's owner council as defined in the South-East Queensland (Distribution and Retail Restructuring) Act 2009. Similarly the committee can be satisfied that the sub-delegations are carried out by an appropriately qualified person as there is a specific requirement that the person who is given the delegation is appropriately qualified. Distributor-retailers and their participating council will work together to determine appropriately qualified persons for sub-delegation. It is noted that the ability to delegate a distributor-retailer's functions as a concurrence agency for a particular development application is contained currently within s 53(5)(b) of the South-East Queensland (Distribution and Retail Restructuring) Act 2009 and its location in the Act is merely being changed to s 53(5)(c).

The committee is satisfied with the department's response.

3.1.3 Powers to enter premises

Clause 12 proposes to insert a new section 53DNA into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* which would allow powers of entry for water connection officers. These powers include the power to enter:

- an open place of business the subject of a water approval,
- an open public place,
- where the occupier consents to entry, and
- entry is by warrant.

The explanatory notes state these powers are consistent with the existing powers currently in place for discharge officers at Part 2, Division 1 of the Act. The powers do not include the power to enter a building or structure used for residential purposes unless there is a warrant.

¹⁷⁰ Office of the Queensland Parliamentary Counsel, Fundamental legislative Principles: *The OQPC Notebook*, p 15.

¹⁷¹ Department of Energy and Water Supply, correspondence dated 18 March 2014.

Clause 54 amends section 36 (Power to enter places for restricted purposes) of the *Water Supply (Safety and Reliability) Act 2008* to provide that an authorised person may enter a place to install a meter. This is in addition to current powers which allow an authorised person to inspect, operate, change, maintain, remove, repair or replace a service provider's infrastructure. An authorised person must satisfy the requirements set out at section 45 of the *Water Supply (Safety and Reliability) Act 2008* which states that:

A service provider may appoint a person to be an authorised person of the service provider if—

- (a) the service provider is satisfied the person has the necessary expertise or experience to be an authorised person; or*
- (b) the person has satisfactorily finished training approved by the service provider.*

The *Legislative Standards Act 1992* provides that legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.¹⁷² The OQPC handbook provides that this principle supports a long established rule of common law that protects the property of citizens. The power to enter premises should generally be permitted only with the occupier's consent or under a warrant issued by a judge or magistrate. Strict adherence to the principle may not be required if the premises are business premises operating under a licence or premises of a public authority.

The former Scrutiny of Legislation Committee's concern in this context was the range of additional powers that become exercisable after entry without a warrant or consent.¹⁷³ The OQPC Notebook states, 'FLPs are particularly important when powers of inspectors and similar officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals'.¹⁷⁴ Residential premises should not be entered except with consent or under a warrant or in the most exceptional circumstances.¹⁷⁵

The former committee has commented that residential premises in particular should not be entered except with the consent of the owner or pursuant to a warrant.¹⁷⁶ The Bill provides for both of these instances at 53DNA(1)(b) and 53DNA(1)(d). The Bill also allows for entry by officers into businesses and public places.

The department advised:¹⁷⁷

The Authorised Person role in the Water Supply (Safety and Reliability) Act 2008 is about accessing water service provider infrastructure and protecting that infrastructure (and the public that it serves) from harm. It is not characterised as an investigative role. The Bill does not expand those powers, as s35 already provides the power to the service provider to install a meter, and the remainder of the authorised person's powers in Part 3 Division 2 are quite extensive. The only effect of the Bill is to make it clear that the authorised person does not have to be a licensed plumber when installing a meter. The Authorised Person under the Water Supply Act 2008 does not have the compliance powers such as search or

¹⁷² *Legislative Standards Act 1992*, section 4(3)(e).

¹⁷³ Alert Digest 2004/5, p 31, paras. 30-36; Alert Digest 2004/1, pp 7-8, paras 49-54; Alert Digest 2003/11, pp 20-21, paras 14-19; Alert Digest 2003/9, p 4, para. 23 and p 31, paras 21-24; Alert Digest 2003/7, pp 34-35, paras 24-27; cited in Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

¹⁷⁴ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

¹⁷⁵ *Ibid*, p 46.

¹⁷⁶ *Ibid*.

¹⁷⁷ Department of Energy and Water Supply, Correspondence, 18 March 2014.

seizure which attach to an Authorised Officer under the Water Supply Act 2008, and Part 3 Division 2 explicitly does not apply to entry to residential buildings because of the operation of s31. The water service provider can only enter after a process of notification, unless the need to enter is an emergency. The only immediate entry power is the s37 power to enter to read a meter, which does not require consent or notification.

The committee is satisfied with the department's response.

3.2 Proposed new or amended offence provisions

The Bill contains new offence provision clauses as detailed in a table provided by the department in Appendix C. For example, new clause 99BRBX provides that a person, other than a distributor-retailer must not make a connection without a water approval for the connection. If a person makes a connection without a water approval the maximum penalty is 1665 penalty units, which equates to a fine of \$183,150.¹⁷⁸

Another example is new section 447 which provides that the relevant service provider, given an improvement plan notice, must comply with the notice, unless the relevant service provider has a reasonable excuse. An offence is created for noncompliance that has a maximum penalty of 1000 penalty units, which equates to a fine of \$110,000.

The defence of a reasonable excuse is also provided for in sections 53DNF, 108A, 142A, 447, 449, 575A and 576A. The explanatory notes are silent as to what may constitute a reasonable excuse.

It is a well-established fundamental legislative principle that a penalty should be proportionate to the offence. Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.

The committee is satisfied that the penalties provided for new and amended offences are justified.

3.3 Explanatory Notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. It requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

¹⁷⁸ Currently, one penalty unit equals \$110.

Appendices

Appendix A – List of submitters

Sub #	Name
1	S J Atkins Plumbing
2	HR Plumbing Pty Ltd
3	Creek to Coast Plumbing & Drainage
4	Pipeline Plumbers
5	Smythe Plumbing Services
6	Fairfield Services
7	Hudson Plumbers
8	Prestige Plumbing & Roofing Yeppoon
9	Sid Reid Plumbing Pty Ltd
10	G & G Plumbing
11	Fluid Industries Plumbing Pty Ltd
12	Rodstar Pty Ltd t/a Roy Walker Plumbing
13	Hartley Plumbing Pty Ltd
14	Tollgate Plumbers & Gasfitters
15	Waterfox Plumbing
16	Yarrow Plumbing Services
17	Les O'Keefe
18	Craig Bremner
19	Tim Forrest Plumbing
20	Canfield Plumbing Co. Pty Ltd
21	Nathan Meuleman
22	Gregory Feltham
23	Malcolm Starnes
24	Colin Claridge
25	Andrew Battersby
26	David Lindenmayer
27	Pig-Mee Plumbing Pty Ltd
28	Phillip Hartman
29	Nick Allen
30	Anthony Peart
31	John R Keith Group
32	Leonard G Kann
33	Queensland Urban Utilities
34	Michael Dey
35	Glen Parker
36	Wayne J Parsons Plumber & Gasfitter
37	Steven Wilson

Sub #	Name
38	Jack Glover
39	Bruce Stacey
40	Beavis & Bartels Pty Ltd
41	Leadbetter Contracting
42	qldwater
43	Kieran Smith
44	PHP Commercial & Civil Plumbing
45	Glamorgan Vale Water Board
46	Atlantis Plumbing & Drainage Pty Ltd
47	De-identified submitters
48	Roger Reed
49	Queensland Council of Social Service
50	Queensland Audit Office
51	Redland City Council
52	Baldocks Plumbing Service Pty Ltd
53	Harpley Services Pty Ltd
54	Tech Plumbing
55	Open Plumbing Pty Ltd
56	Robert Mackay - PlumbCall
57	Cameron Mackay - PlumbCall
58	C & K Plumbing
59	Skills Smart Plumbing Pty Ltd
60	Gladstone Area Water Board
61	Moreton Hydraulic Services
62	Christopher Contracting
63	Cairns Regional Council
64	Urban Development Institute of Australia
65	Simon Higgs
66	Stewart Lemon
67	Plumbers Union Qld
68	Delmic Plumbing Service Pty Ltd
69	Local Government Association of Queensland
70	Master Plumbers' Association of Queensland
71	Slade Bros Plumbing
72	Services Trades Queensland
73	Moreton Bay Regional Council
74	Unitywater
75	Property Council of Australia
76	IDF Plumbing Service
77	Brisbane City Council
78	Toowoomba Plumbing Solutions Pty Ltd

Appendix B – List of witnesses at the public hearing held 17 March 2014

Witnesses	
1	Glen Chatterton – Project Officer, Services Trades Queensland
2	Sharon Durham – Operations Manager, Plumbers Union Queensland
3	Bradley O’Carroll – State Secretary, Plumbers Union Queensland
4	Elizabeth Palmer-Bright – Plumbing Trade Workforce Support Officer, Plumbers Union Queensland
5	Ernst Kretschmer – Technical Services Manager, Master Plumbers Association
6	Dennis Yarrow – Board Member, Master Plumbers Association
7	Dave Cameron – Acting Chief Executive Officer, Queensland Water Directorate
8	Greg Hoffman – General Manager for Advocacy, Local Government Association of Queensland
9	Graeme Ballard – Project Consultant Strategic Planning and Asset Management Branch, Unitywater
10	Ashley Lorenz – Manager Strategic Planning and Asset Management Branch, Unitywater
11	Jennifer Williams – Senior Policy Advisor, Property Council of Australia
12	Ian Harvey Ross – Policy Officer, Property Council of Australia
13	Michelle Anderson – Team Leader Water Supply Policy and Economics, Department of Energy and Water Supply
14	James Coutts – Executive Director, Department of State Development, Infrastructure and Planning
15	Gayle Leaver – General Manager Water Supply Policy and Economics, Department of Energy and Water Supply
16	Richard Scott – Acting Director Regulatory Reform, Department of Energy and Water Supply

Appendix C – Table of penalties prepared by the department

Annexure A – Proposed new or amended offence provisions

The Committee can be satisfied that the penalties provided for new offences are consistent and appropriate. Please refer to the attached table which provides further information in this regard.

Clause	Offence	Proposed maximum penalty (\$110 per unit)	Departmental rationale
53DNF	A person to whom a water connection compliance notice is given must comply with the notice unless the person has a reasonable excuse.	Maximum penalty—100 penalty units.	Consistent with the <i>South-East Queensland (Distribution and Retail Restructuring) Act 2009</i> s53DL
99BRBX	A person, other than a distributor-retailer, must not make a connection without a water approval for the connection.	Maximum penalty—1665 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s578
99BRBY (1)	A person must comply with each standard condition of a standard connection.	Maximum penalty—165 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s579
99BRBZ (1)	A person must comply with each water approval condition of a water approval.	Maximum penalty—1665 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s580
108 (1)	A service provider must ensure someone other than the provider does the following, unless the provider has a reasonable excuse— (a) audits its drinking water quality management plan at the intervals stated in a notice given to the provider under section 99; (b) prepares a report (a <i>drinking water quality management plan audit report</i>) complying with this section about each of the audits; gives the regulator each report within 30 business days after the relevant audit is completed.	Maximum penalty—500 penalty units.	Consistent with existing s141 penalty for annual report
108a (1)	A service provider must ensure someone other than the provider does the following, unless the provider has a reasonable excuse— (a) audits the data in its performance report for each notified year; (b) prepares a report (a <i>performance audit report</i>) that includes data for each KPI submitted in the notified way; (c) gives the regulator each performance audit report on or before the later of the following— (i) 1 October in the notified year; (ii) 30 days after notification of the year.	Maximum penalty—500 penalty units.	Consistent with existing reporting penalty units.

142 (2)	The provider must, unless the provider has a reasonable excuse— (a) prepare a report (a <i>drinking water quality management plan report</i>) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and (b) give the regulator a copy of the report within 120 business days after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
142A (2)	The provider must, unless the provider has a reasonable excuse— (a) prepare a report (a <i>performance report</i>) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and (b) give the regulator a copy of the report on or before 1 October occurring immediately after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
142B (2)	The provider must, unless the provider has a reasonable excuse—(a) prepare a report for the financial year complying with this section (a <i>system operating plan report</i>); and (b) give the regulator a copy of the report within 120 business days after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
196AA	The relevant entity for a recycled water scheme, other than a CSG recycled water scheme, must apply for registration of the scheme before the deadline.	Maximum penalty— 500 penalty units.	Public health implications and broadly consistent with Recycled Water framework
196 (2)	The recycled water provider for a single-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.	Maximum penalty— 1665 penalty units.	Consistent with existing penalty – higher exposure schemes could have public health risks if not properly managed

196 (3)	A recycled water provider or other declared entity for a multiple-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.	Maximum penalty— 1665 penalty units.	Consistent with existing penalty— higher exposure schemes could have public health risks if not properly managed
447	A relevant service provider given an improvement notice under section 446 must comply with the notice, unless the provider has a reasonable excuse.	Maximum penalty— 1000 penalty units.	Important protection for public health, escalating scale of enforcement
449	A relevant service provider given a direction under section 448 must comply with the direction, unless the provider has a reasonable excuse.	Maximum penalty— 1665 penalty units.	Important protection for public health, escalating scale of enforcement
575A	A service provider must publish each of its documents mentioned in section 575(1), other than the following, unless the provider has a reasonable excuse— (a) drinking water quality management plans; (b) drinking water quality management plan audit reports; (c) performance audit reports.	Maximum penalty— 50 penalty units.	Smaller scale offences about public confidence
576A	The relevant entity for a recycled water scheme must publish the annual report prepared by the entity under section 273, unless the entity has a reasonable excuse.	Maximum penalty— 50 penalty units.	Smaller scale offences about public confidence

Appendix D – Correspondence received from the Department of Energy and Water Supply throughout the inquiry

CLLO-CIC-14016

Department of
Energy and Water Supply

6 March 2014

Hon David Gibson MP
Chair
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Gibson

Thank you for the recent opportunity for departmental officers to address the State Development, Infrastructure and Industry Committee (the Committee) on the Water Supply Services Legislation Amendment Bill 2014 (the Bill).

Please find the department's written brief attached. The brief provides additional detail on the major sections of the Bill and addresses the key points in the submissions.

As requested, some further briefing materials will be provided by next Tuesday, 11 March 2014 to assist the Committee in its consideration of the Bill.

If you require further information please contact Ms Gayle Leaver, General Manager, Water Supply Policy and Economics, on (07) 3166 0170.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Dan Hunt".

Dan Hunt
Director-General
Department of Energy and Water Supply

Att: Written brief for SDIIC

Page 1 of 1

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Streamlined process for water and sewerage connection approvals

The Water Supply Services Amendment Legislation Bill 2014 (the Bill) amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act) to create a single approval process for South East Queensland (SEQ) distributor-retailers for connecting premises to water and sewerage services (the utility model), and make consequential amendments to other acts.

This process will be quicker and simpler, aligns with the Government's planning reforms and support economic development in SEQ. The utility model will improve infrastructure planning and management, by facilitating early discussions with the development industry to ensure that infrastructure meets the needs of the community.

The utility model will be supported by improved infrastructure and business planning through Water Netserv Plans for the distributor-retailers and by a common regional technical standard for water and sewerage infrastructure – the SEQ Design and Construction Code. A Water Netserv Plan provides for water and sewerage provision in a distributor-retailer's geographic area over a 20 year time period. It integrates land use planning undertaken by councils and plans for water and sewerage infrastructure and includes a distributor-retailer's connections policy. It is required to be consistent with the SEQ Regional Plan and the distributor-retailer's owner councils' planning assumptions in their Priority Infrastructure Plans.

The connections policy must include a connection area and a future connection area. In the connection area a connection is guaranteed if connection criteria are met. The future connection area identifies where water infrastructure networks are proposed to be extended. The connections policy will also include the circumstances in which connections outside the connection area may be approved, the criteria for providing the connections and the conditions for standard connections. The distributor-retailers are required to publicly consult on their connections policy.

The connections policy has been designed to be flexible and transparent to respond to changing circumstances in a distributor-retailer's geographic area. For example where new connections have been approved, either large (e.g. new subdivision) or small, a distributor-retailer can easily amend and expand its connections area through a simplified consultation process. Developers and the public alike will be able to clearly identify what is required to achieve a water and or sewerage connection to the distributor-retailer's network.

The utility model has been customised for all scales of development to allow for effective and timely water and sewerage connections to be approved directly by distributor-retailers, whether for a single property or major developments such as a new housing estate. Standard approvals with standard conditions apply to simple connections such as new houses. In addition there are non-standard approvals and approvals for large staged developments. Accredited third parties can deal with aspects of more complicated applications such as certifying infrastructure. This approach has been designed to reduce design times, holding costs and delays for developers.

The current approach for infrastructure conditioning, agreements and infrastructure charging (i.e. capped infrastructure charges) under the *Sustainable Planning Act 2009* (SPA) will also apply to distributor-retailers under the utility model. Any necessary legislative changes from the Department of State Development, Infrastructure and Planning's (DSDIP) Infrastructure Planning and Charging Framework Review will be applied to the distributor-retailers and the utility model before its commencement.

The Bill also provides for property service infrastructure charges and connection fees. Charges for property service infrastructure and connections fees have been previously applied under the *Water Supply (Safety and Reliability) Act 2008*.

The distributor-retailers and their councils have been involved in the development and preparation of the utility model amendments and are supportive of the utility model, though noting that Moreton Bay Council and Brisbane City Council have raised some concerns, particularly around transitional arrangements. Unitywater has requested further changes to the utility model. The Department does not think these changes are necessary.

Representatives of the development industry, in particular the Urban Development Institute of Australia, the Property Council of Australia, the Housing Industry Association and the Queensland Master Builders Association are supportive of the utility model. They have also been involved throughout the development and preparation of this legislation to reduce red tape for distributor-retailers and the SEQ building and construction industry. Representatives of the development industry appreciate and are seeking the benefits that the new streamlined and flexible utility model can provide which would not have been possible under the previous delegated assessment model.

The distributor-retailers are already working with their owner councils and with the development industry through industry reference groups to prepare for the implementation of the utility model and to obtain input into policies, practices and procedures. The distributor-retailers are also collaborating to ensure a consistency in approach.

The implementation of the utility model may identify opportunities for continuous improvements to the model over time. The Department of Energy and Water Supply (DEWS) will work with the distributor-retailers and industry through implementation to identify any opportunities for continuous improvements and the progression of any legislative changes to facilitate these. During the first 12 months to 18 months of implementation of the utility model an independent review in relation to any significant issues that arise from the implementation of the utility model including in relation to fees and charges and transitional provisions could be undertaken.

Matters that have been raised in submissions to the State Development Infrastructure and Industry Committee are addressed in Attachment 1.

Transform the regulation of water and sewerage service providers

The Bill removes the requirement for a range of prescriptive management plans and replaces them with annual, public reporting on key performance indicators (KPIs). Regulation will be focussed on outcomes, not process. The requirement for regular, public reporting combined with the publication of an industry-wide comparative report will promote business monitoring and drive continual improvement.

The new framework does not replace the need for good planning by service providers; rather it removes prescriptive, generic regulatory plans which many providers said they did not use. Service providers can instead focus on developing plans that reflect their customer needs, address their risks and manage their operations effectively. The KPI framework will support a proper focus on outcomes and will include indicators about available water, water use, incidents, customer connections, and spending on maintenance and renewals. Service providers will be due to report on indicators for the 2014-15 year by 1 October 2015, and a water sector comparative report will be published by early 2016 after the first reporting cycle is complete.

The Bill contains a number of consequential amendments to reflect changes made to the *Environmental Protection Policy (Water) 2009* in December 2013. It is necessary to remove references in the Water Supply Act to certain environmental plans (total water cycle management plans and trade waste plans) as these plans have been removed from the EPP Water.

Reduce the regulatory burden on recycled water providers

In Queensland, production and supply of recycled water is regulated by the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act).

The current regulatory framework does not differentiate greatly between schemes that supply for lower exposure uses (such as irrigation of turf and woodlots) and higher exposure uses (such as residential use via a dual reticulation system). All providers are required to submit recycled water management plans or exemption applications for assessment and conditioning by the regulator. The conditions of approval require, as a minimum, monitoring and compliance with water quality criteria, reporting to the regulator and ceasing supply in certain circumstances.

Recycled water providers and industry bodies have said that the regulatory burden for recycled water schemes supplying for lower exposure uses is costly and not proportionate to the public health risk. Part of the cost is due to the overlap of several regulatory frameworks.

The Bill removes the requirement for schemes that supply for lower exposure uses to have an approved plan or granted exemption in place by 1 July 2014. The general duty on these providers under the *Public Health Act 2005* to supply recycled water that is 'fit for use' still applies. Strict penalties apply if a provider knowingly supplies recycled water that is not 'fit for use'.

There will be no change to the stringent requirements for higher exposure uses. Recycled water management plans will still be required. The regulator may require recycled water management plans for other schemes, if there is a public health reason to do so.

A new register of recycled water schemes will be published that will provide information about where water recycling is occurring.

Clarify the Installation of Water Meters

Water meters are owned by the water service providers, which are almost all local governments, or local government owned businesses. The Water Supply Act, in conjunction with the *Public Health Act 2005*, ensures that these providers operate and maintain their networks safely and reliably. These Acts contain substantial penalties for any providers who fail to do so. The water meter is the boundary of a service provider's network, and a critical component of their network infrastructure Billing and revenue framework. This proposal aligns the regulatory framework more clearly with the asset (and risk) ownership.

The proposal in this Bill will clarify that only authorised persons of water service providers or licensed plumbers will be able to install water meters. Arguably, water meters are not plumbing under the *Plumbing and Drainage Act 2002*, which defines plumbing for water as 'an apparatus, fitting or pipe for supplying water to premises from a service provider's infrastructure or a water storage tank and for carrying water within premises', and the meters are unambiguously water service provider infrastructure – so plumbing is everything from the meter outlet to the tap.

The Bill's amendments only apply to 'relevant water meters'. These are defined in Clause 44 of the Bill through amendments to the *Plumbing and Drainage Act 2002* that provide an offence excuse relating to installation only of various categories of primary meters – hence sub-meters are excluded and anyone other than a licensed plumber installing a sub-meter would be committing an offence. This drafting option was chosen because of the complexity of developing a definition for sub-meters

that would be accurate in all conceivable combinations of lot title, business purpose and pipework configuration.

This minor clarification of the legislative situation does not introduce a new public health risk. These water industry workers cannot be appointed unless they perform their functions safely and mitigate any risks to public health and safety in performing their functions. They can and do already maintain and replace meters, and several councils use them to install meters. The proposal will explicitly bring Queensland into line with all other Australian jurisdictions – no other jurisdiction limits this work solely to licensed plumbers.

The stringent water quality and governance regimes that apply to Drinking Water Quality Management Plans under the Water Supply Act will continue to apply to the water meters, as they do now to the rest of the water supply network. Providers are required to address the risks in their entire network, and to apply appropriate risk treatment measures risks – adequate training of maintenance workers is specifically identified as an example of the sort of risk treatment measure that would be appropriate. These Plans have to be approved by the Department, and there are stringent penalties (1665 penalty units, currently \$183,150) for failing to comply with an approved plan. Section 57E of the *Public Health Act 2005* imposes severe penalties for a provider which knowingly provides unsafe drinking water (maximum penalty of 3000 penalty units i.e. \$333,000 or 2 years imprisonment, and with executive liability applying). This dwarfs the maximum penalty of 165 penalty units i.e. \$18,150 unit under the *Plumbing and Drainage Act 2002* penalty for doing unlicensed work.

Many of the cross-connection incidents outlined by the plumbing industry in their submissions involved plumbers, unlicensed individuals working for plumbing contractors, or did not involve meters at all, and certain details of the incidents are incorrect. For example, one of the cross-connections mentioned in the Master Plumbers Association of Queensland (MPAQ) submission involved the cross-connection of a shower at Caboolture Hospital by an apprentice plumber. The MPAQ also refer to a cross-connection incident involving Airport Link and recycled water they claim was supplied by Queensland Urban Utilities (QUU). QUU does not have a piped recycled water supply to Airport Link and DEWS and the Department of Health do not have a record of any incident making people ill – which would have been a reportable public health incident. QUU investigated the relevant customer complaint of taste and odour problems with Brisbane City Council, finding that there was a private cross-connection between the QUU network and a private network – and QUU workers did not make that connection.

The two training packages for both water industry workers and plumbers under the Australian Qualification Framework include competencies which address water meter installation. The Water Training Package (NWP07) includes the competency *NWP215B 'Install and replace basic volumetric metering equipment'*, as a voluntary unit available in the Certificate II in Water Operations. The Construction Training Package (CPC08) (which covers plumbers) also includes a voluntary competency *CPCPWT3028A – 'Install water service'* which covers meter installation. This unit is not a mandatory component of the Certificate III in Plumbing and is not needed to gain a plumbers licence in Queensland.

Services Trades Queensland (STQ) is correct that the national vocation system is aligned to industry skills needs, high quality competency standards and the development of nationally recognised and portable qualifications. The NWP07 Water Training Package, which is part of that vocational system, has been through the same detailed development process as the plumbing package.

STQ misrepresents the competencies of the Water Operations training package, which certainly does apply to the urban drinking water industry as well as to non-potable supplies. Many of the competencies in the Water Operations packages are explicitly about drinking water treatment and distribution as listed in the table (drawn from the NWP 201017

Certificate II in Water Operations and available online at

<http://training.gov.au/Training/Details/NWP2010>). The bolded competencies are particularly relevant to the concerns raised by STQ.

NWP201B	Follow defined OHS procedures and regulatory requirements
NWP202B	Apply environmental and licensing procedures
NWP203B	Plan and organise personal work activities
NWP213B	Monitor and operate irrigation and domestic delivery systems
NWP215B	Install and replace basic volumetric metering equipment
NWP218B	Perform and record sampling
NWP219A	Work safely in confined spaces
NWP221A	Operate basic flow control and regulating devices in water or wastewater treatment network systems
NWP223A	Install basic metering equipment, flow control and regulating devices
NWP232B	Operate water reticulation and distribution system
NWP233B	Construct and install water distribution assets
NWP234B	Locate, identify and protect utility services
NWP244B	Maintain and repair bulkwater assets
NWP245B	Maintain tanks and water storage assets
NWP250B	Construct and install wastewater pipelines
NWP253B	Install and repair water services
NWP254B	Repair or insert water distribution assets
NWP255B	Maintain and repair wastewater collection assets
NWP256B	Monitor and report water distribution systems
NWP257B	Maintain and repair wastewater collection systems
NWP258B	Monitor and operate bulkwater transfer systems
NWP259B	Operate, monitor and maintain pump stations
NWP260A	Monitor and report water treatment processes
NWP261A	Operate and maintain water treatment plant and equipment
NWP262A	Monitor and report wastewater treatment processes
NWP263A	Operate and maintain wastewater treatment plant and equipment
NWP264B	Monitor, operate and report wastewater pre-treatment processes
NWP268B	Monitor, operate and report chlorine disinfection systems
NWP270B	Monitor, operate and report basic anaerobic processes
NWP271B	Monitor, operate and report sedimentation processes
NWP272B	Monitor, operate and report wastewater lagoon processes
NWP273A	Monitor, operate and report ultraviolet irradiation disinfection systems
NWP274A	Monitor, operate and report ozone treatment systems
NWP275A	Monitor, operate and report chlorine dioxide systems
NWP276A	Monitor, operate and report fluoridation systems
NWP277A	Work safely with liquefied chlorine gas
NWP278A	Perform blue green algae sampling
NWP279	Demonstrate knowledge of the risk management principles of the Australian drinking water guidelines
BSBSUS201A	Participate in environmentally sustainable work practices
RIICCM205A	Carry out manual excavation
RIICCM210A	Install trench support

Of particular note, the STQ characterisation of NWP215B *'Install and replace basic volumetric metering equipment'* is incorrect. STQ claims that this is an introductory unit and is one of a group which 'do not specifically relate to water meters, rather are designed to provide an overview of metering systems including water, gas or stream'. NWP215B is described in the official competency document as follows:

'This unit of competency describes the outcomes required to install and replace basic volumetric metering equipment for domestic, industrial and commercial premises. The unit also includes the identification of defects and the reporting, replacement and adjustment of metering equipment'; and

'This unit supports the attainment of skills and knowledge required for staff responsible for the effective and accurate operation of water metering equipment as a vital component of service delivery and compliance reporting'; and

'...the candidate should demonstrate the ability to install and replace basic volumetric metering equipment for domestic, industrial and commercial premises'.

It would be inappropriate to expect water industry workers to undertake many units of plumbing training in order to achieve a competency that can already be covered under their training package. Water industry workers are not licensed because they operate within the risk assurance framework of a larger organisation, not because they are unskilled. Plumbers operate under a very different governance framework which focuses on individual licensing because the public are often contracting with an individual plumber to undertake work, as opposed to receiving a water service from an organisation.

As regards the financial implications of the policy, it is important to reiterate that the current legislative framework is ambiguous. The MPAQ argues that plumbers do the work cheaper than water industry workers, but that some of their members would go out of business if they lost the work. Water service providers are under substantial pressure to keep costs down to reduce the pressure on the cost of living, and will use the most efficient approach to get the work done. That often includes outsourcing the work to a plumbing firm. MPAQ also suggests that the Bill will increase red tape, which would only be true if the plumbing industry's proposal to issue licenses to water industry workers was adopted.

Tenant Advice Notices

The water advice notices currently required under s 139 of the Water Supply Act are a substantial administrative burden on water service providers. Providers do not usually know whether the occupier of a property is the owner or not, and so would have to provide a written notice to every premises in order to ensure compliance with this section. A tenant, or direct customer, can track their own water use through reading their own meter to enable them to understand their water usage and identify potential leaks if they are particularly concerned.

The Queensland Council of Social Service has suggested that there are an increasing number of tenants paying the water consumption component of their water Bill and then argue that the tenant advice notice assists tenants to understand their water usage. The Residential Tenancies Authority website states that lessors will receive the water Bill and should provide the tenants with a copy of water Bills or evidence of water consumption to verify the amount to be charged. Tenants must be given one month to pay any water Bill after receiving the notice from the lessor or agent.

The Department is already aware of concerns from tenants and landlords about the process for sharing the costs of water services, and will undertake more detailed consideration about whether the tenant should in fact be Billed directly for water consumption, rather than have the costs passed through the landlord – noting that this is a highly contentious issue for both groups.

Audits

The audit provisions in the Bill are intended to cover all relevant service providers regardless of the corporate form of the water service provider. Although most are public sector entities, there are some private companies providing services, and the entire regulatory framework has to cater for both. The drafting intent was that the Queensland Audit Office could undertake the audit of the accuracy of the performance reports for local government entities, and the Department will be working with the Audit Office on implementing the Bill.

Attachment 1

Queensland Urban Utilities

Queensland Urban Utilities strongly supports the utility model and the reduction in red tape it provides as well as welcoming the ability it will provide to adopt efficient and customer focused business processes that have not been possible under existing legislation. It will enable them to introduce a range of industry supported initiatives such as third party certification of water and sewerage works and to have approval processes that are flexible and tailored so that simple developments can be connected quickly.

It is confident that it will be ready to commence the utility model on 1 July 2014 and is working closely with its councils and the development industry to prepare for implementation. It is also working closely with Unitywater to ensure a consistent approach.

qldwater

qldwater has advised that members are committed to working to deliver the utility model by 1 July 2014. They have raised that the implementation timeframe has changed.

Further time has been taken to develop the utility model as DEWS wanted to include distributor-retailers and their owner councils and industry as part of the development process, including the development of the Bill as they will implement and use the new process.

A series of workshops were conducted on draft Bills with distributor-retailers, councils and industry groups (Housing Industry Association, Property Council of Australia, Master Builders Association, and Urban Development Institute of Australia). Consultation on the draft Bill also occurred with the Council of Mayors SEQ.

Prior to the development of the Bill detailed consultation occurred with the distributor-retailers, councils and the Council of Mayors SEQ in developing the policy approach for the utility model. This included numerous workshops, and meetings from 2011 onwards.

Property Council of Australia

The Property Council of Australia supports the utility model and have raised the below matters.

A request has been made to include in the Bill a penalty for a distributor-retailer failing to implement the utility model. The distributor-retailers are currently working with their councils and with industry reference groups to prepare for commencement of the utility model and are committed to delivering the flexible streamlined benefits the utility model has to offer from 1 July 2014. Distributor-retailers will commence assessing water and sewerage connection applications from 1 July 2014 and it is not appropriate to include in the legislation a penalty for distributor-retailers for failing to implement the utility model. The penalties for service providers who fail to maintain customer service standards and to provide reports and other requested information deal with different matters and the penalties are with an entirely different context.

A request has been made to consider the DSDIP's review of the SPA and any changes that may occur from this review. DEWS has been part of the State agencies being consulted in relation to the DSDIP review of the SPA and will work with DSDIP to make any necessary changes from the review that are relevant for the utility model.

A request has been made for a services advice notice to be binding on a distributor-retailer. A distributor-retailer may provide an applicant with a services advice notice which will provide an applicant with early advice about the proposed connection, charges and any other matters. This notice will be based on the particular information provided by an applicant to a distributor-retailer. Once a water approval application is made further more detailed information may be provided as well as circumstances changing, therefore this notice is not binding on a distributor-retailer (see s 99BRAC and 99BRAD).

A request has been made for timeframes to be included in the Bill for the information sharing provisions between distributor-retailers and local governments. These provisions require the provision of information at no cost and as soon as reasonably practicable. Specific timeframes for the provision of this information has not been provided as the timeframes for each case will depend on the extent of the information requested. Councils and distributor-retailers may enter into an agreement which details how the information sharing will happen in practice, including indicative timeframes for this (see s 100G and s 138).

Urban Development Institute of Australia

The Urban Development Institute of Australia supports the utility model and has raised the following matters.

A request for a mandated review of the legislation in 12 months to be included in the Bill has been made. The implementation of the utility model may identify opportunities for continuous improvements to the model over time. DEWS will work with the distributor-retailers and industry through implementation to identify any opportunities for continuous improvements and the progression of any legislative changes to facilitate these. During the first 12 months to 18 months of implementation of the utility model an independent review in relation to any significant issues that arise from the implementation of the utility model could be undertaken.

A request has been made to amend the Bill so that local governments cannot impose charges and fees relating to water and sewerage after the commencement on the utility model. Once the distributor-retailers are dealing with a water or sewerage connection under the utility model, local governments will not be able to charge for water and sewerage matters dealt with by the distributor-retailer. The Bill in s 99BRAT provides that a water approval or a grant of a standard connection is a complete assessment and cannot be assessed or authorised under a local law or any other law of the State.

The issue raised concerning the outcomes of the SPA review and any necessary amendments to the utility model from this has been addressed under the comments above for the Property Council of Australia.

Redlands City Council

A request has been made to delay Water Netserv Plans being adopted until after the SEQ Regional Plan is introduced. Water Netserv plan can be updated as is necessary and must be consistent with its local government planning assumptions and the SEQ Regional Plan. DSDIP has advised that the SEQ Regional Plan will not be released until sometime in 2015. It is not viable to wait until after the SEQ

Regional Plan is introduced to then have a Water Netserv Plan. It is intended that Water Netserv Plans will be reviewed and updated where necessary.

Distributor-retailer - Unitywater

Unitywater strongly supports the utility model and has requested a number of changes as detailed below which DEWS does not believe are necessary.

A request has been made to change the reference to a connections policy to a connections code. The reference to a connections policy within the utility model is consistent with the existing framework which already includes requirements for the connections policy (see s 99BO(1)(f) of the SEQ Water Act).

A request has been made to make provision to extend by a regulation the date by when a Water Netserv Plan must be adopted. The existing requirements to have an interim connections policy and a schedule of works will be used until there is a Water Netserv Plan in force. The need to extend the timeframe for when a Water Netserv Plan is required is unlikely given the collaborative work that is being undertaken by distributor-retailers with their councils and with the development industry in preparation for implementation of the utility model.

A request has been made for formal recognition of a “compliance certificate” in the legislation. The distributor-retailer has rightfully pointed out that clause 35 of the Bill already deals with the need for certain endorsements/clearances from a distributor-retailer before subdivision plans may be registered. The Bill already provides that a distributor-retailer can give a notice stating whether there is compliance with a water approval and if fees and charges have been paid (see s 99BRAR). There is no need to make provision for a compliance certificate. The distributor-retailer may provide this advice in the form of one document if they so choose and they may call it a compliance certificate.

A request has been made for a mandatory approval without the need for consent from a council in relation to infrastructure works to be carried out on a public place that a council is responsible for. This is proposed to apply where works are carried out on roads along standard alignments and in accordance with the SEQ Design and Construction Code or the distributor-retailer’s published standards. The Bill already provides in clause 6 for the ability for a council and a distributor-retailer to enter into a consent arrangement if water infrastructure is within an agreed location on a road and in such a case a water approval can be given by a distributor-retailer without a further approval from a council for the infrastructure works. A distributor-retailer and all its councils may agree on the same approach for such consent arrangements, without mandating it in the legislation. This is consistent with the current approach in the SEQ Water Act of a council’s approval being obtained for water infrastructure works on public places that the council is responsible for. These provisions have already been broadened by the Bill to allow for broad consent arrangements between council and distributor-retailers which can apply to one or more locations and to be subject to the SEQ Design and Construction Code without the need for individual approvals for each instance of infrastructure works. A mandatory approval without the need for a consent arrangement with a council for infrastructure works on publicly controlled places they are responsible for is not appropriate.

A request has been made for a right of appeal or arbitration in the event that a Water Netserv Plan and/or interim connections policy is not endorsed by the Planning Minister and/or participating council as relevant. The Bill already provides in clause 20 s 99BR(2), (4) and (5) that a participating council must endorse the plan if it is consistent with its planning assumptions and that the Planning Minister must endorse the plan if it is consistent with the SEQ Regional Plan. Further that in the event that they have not refused to endorse the plan or asked the distributor-retailer to change the plan, within 30 business days after receiving it, that is taken to have endorsed it. The Planning

Minister's role is only to endorse that the Water Netserv Plan is consistent with the SEQ Regional Plan. The owner council's role is only to endorse that the Water Netserv Plan is consistent with its planning for future growth. Further legislative provisions are not required for an appeal or arbitration in the legislation.

Moreton Bay Regional Council

Moreton Bay Regional Council has expressed concern about there not being a formal oversight role by a Council as part of its assessment manager role under the SPA. Councils do not have this role currently, rather there is a delegated assessment model whereby distributor-retailer's concurrence role for water and sewerage matters has been mandatorily delegated to their councils.

A request has been made for a change to transitional provisions so that there is no distinction for how staged development applications (an application for reconfiguration of a lot application where there will be a later reconfiguration of a lot application or an operational works application) are treated. However staged development applications are a specific category that requires differentiation and these may include an operational works application. The Bill provides that staged development applications be dealt with under the SPA and then when they become an approval they will transfer across as a staged water connection approval under the SEQ Water Act. This is necessary as staged development may go on for a number of years and successive requests for connection applications for stages of the development are likely to be made, in which case it is appropriate that these matters be dealt with under the utility model (see s135, 963 and 964). During the first 12 months to 18 months of implementation of the utility model an independent review in relation to any significant issues that arise from the implementation of the utility model including in relation to transitional provisions could be undertaken.

A request has been made to amend the transitional provision which provide that an adopted infrastructure charge of a distributor-retailer carries over under the utility model until a new adopted infrastructure is made by a distributor-retailer's board. In particular that this be limited to the distributor-retailer's component of the adopted infrastructure charge.

Currently local governments and distributor-retailers share the maximum adopted infrastructure charge set under the *State planning regulatory provision (adopted charges)* under the SPA. Consequently the existing adopted infrastructure charge of the distributor-retailer is already limited under the SPA to the distributor retailer's proportion of the adopted infrastructure charge and does not cover the local government's proportion of the adopted infrastructure charge. Similarly the distributor-retailer's board decision powers for making a new adopted infrastructure charge under the utility model are limited to the distributor-retailer's proportion of the adopted infrastructure charge and it does not cover the local government's proportion of the adopted infrastructure charge.

For new board decisions under the utility model see s 99BRCI and s 99BRCG of the Bill – the effect of which is that a distributor-retailer's board cannot adopt a charge more than its relevant proportion of the maximum adopted infrastructure charge. For previous board decisions under SPA see s 755KA and Schedule 3 definition of "relevant proportion" of the SPA. There is no need for further legislative provisions.

It has been raised that the distributor-retailer's current concurrence agency assessment is not proposed to be removed from SPA. The distributor-retailer's concurrence agency assessment role is proposed to be removed from SPA by means of a regulation amendment to coincide with the utility model's commencement on 1 July 2014. The distributor-retailers will still retain a concurrence role for development applications that relate to carrying out building work for building a structure on a lot that contains or is adjacent to a lot that contains a distributor-retailer's infrastructure. This

development application is for building work by a proponent which may have an impact on a distributor-retailer's infrastructure such as building over their sewer. This building work is a matter that must stay within the jurisdiction of the SPA and the *Building Act 1975* along with all building work. It is not part of the utility model framework for water and sewerage connections.

It has been requested that the appeal period for internal review be tied to when an applicant receives a decision notice. The appeal period for internal review in s 99BRBA commences from when the original decision is made and is a generous period of 30 business days.

The timing for payment of "adopted infrastructure charges" has been raised. The timing is consistent with the current approach in the SPA and has been developed with DSDIP. The infrastructure review being conducted by that department is considering changes to the times for payment of infrastructure charges and any changes would be applied to the utility model before its commencement.

The information sharing provisions between councils and distributor-retailers have been raised (see s 100G and s 138) and it has been suggested that councils should be able to charge for the provision of such information. Distributor-retailers are owned by their participating councils and it would not be appropriate for inter-charging between the two to occur, which ultimately the customer would then need to pay for. There is nothing stopping councils and distributor-retailer's also having an agreement for details about how information sharing is to occur in practice.

Brisbane City Council

Brisbane City Council has been part of the council working groups involved in the development of the Bill and has previously expressed support for the utility model.

It has questioned how the utility model will integrate with council planning and development processes. The utility model has been designed to run parallel with the Integrated Development System (IDAS) under the SPA. A council will assess planning issues and the impact the development has on land under IDAS as the planning authority. The utility model is a technical assessment about the ability for an applicant to connect to the distributor-retailer's water and sewerage network and the associated costs.

The councils and distributor-retailers will work closely in developing both the council's Priority Infrastructure Plan and the distributor-retailer's Water Netserv Plan.

A Water Netserv Plan provides for water and sewerage provision in a distributor-retailer's geographic area over a 20 year horizon and includes its connections policy. It integrates land use planning undertaken by councils and then plans for water and sewerage infrastructure and includes a distributor-retailer's connection policy. A Water Netserv Plan is required to be consistent with its owner council's planning in its Priority Infrastructure Plan, which includes Priority Infrastructure Areas for growth development. It must also be consistent with the SEQ Regional Plan which manages growth, change, land use and development in SEQ. When distributor-retailers assess a water connection application they must have regard to their connections policy contained in their Water Netserv Plan. The connections policy includes their connection area and their future connection area where water infrastructure networks are proposed to be extended in the future as well their connection criteria.

Council is seeking a sunset clause under which the transitional process for development applications with water and sewerage matters still dealt with under the SPA is to be time limited to 31 December 2014. The current transitional arrangements are supported by industry, distributor-retailers and the majority of councils. The current approach under which applications which were received before the commencement of the utility model are to continue to be dealt with under

SPA (with the exception of staged development applications and approvals) is consistent with the usual approach for transitioning to a new framework.

The implementation of the utility model may identify opportunities for continuous improvements to the model over time. DEWS will work with the distributor-retailers and industry through implementation to identify any opportunities for continuous improvements and the progression of any legislative changes to facilitate these. An independent review of the utility model could be undertaken in the first 12 to 18 months in relation to any significant implementation issues including in relation to the application of the transitional provisions.

CLLO-CIC-14020

Department of
Energy and Water Supply

11 March 2014

Hon David Gibson MP
Chair
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

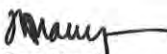
Dear Mr Gibson

I am writing to respond to the questions taken on notice by the Department of Energy and Water Supply on 5 March 2014 at the State Development, Infrastructure and Industry Committee public departmental briefing on the Water Supply Services Legislation Amendment Bill 2014.

Please find the department's response to questions on notice attached.

If you require further information please contact Ms Gayle Leaver, General Manager, Water Supply Policy and Economics, on (07) 3166 0170.

Yours sincerely

For 
Dan Hunt
Director-General
Department of Energy and Water Supply

Att: Response to questions on notice

Page 1 of 1

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Water Supply Services Legislation Amendment Bill 2014

Response by the Department of Energy and Water Supply to Questions on Notice from the State Development, Infrastructure and Industry Committee

Contents:

1. How does clause 44 of the Bill ensure that sub-meters must still be installed by a licensed plumber?
2. Table summarising the regulation of water meter installation in major Australian jurisdictions
3. Diagram of the interface between water service provider infrastructure and plumbing, showing how the Bill amends current legislation about water meters
4. Management plans typically in place for council water service providers prior to the Millennium Drought
5. Services Trades Queensland submission: points of clarification

Note: Written confirmation from the Department of Health confirming its support for the proposal to allow a water service provider's authorised person to install certain water meters will be provided direct to the Committee.

1. How does Clause 44 of the Bill ensure sub-meters must still be installed by a licensed plumber?

Currently the draft Bill amends the *Plumbing and Drainage Act 2002* through Clause 44 as follows:

44 Amendment of s 121 (Exemptions for ss 119 and 120)

(1) Section 121(1)—

insert—

(e) the installation, and any work relating to the installation, of a relevant water meter by an authorised person under the Water Supply Act, section 35.

(2) Section 121(2)—

insert—

authorised person see the Water Supply Act, schedule 3.

relevant water meter means a water meter for measuring the volume of water supplied to any of the following—

(a) a lot under the *Land Title Act 1994*, other than a lot—

(i) included in a community titles scheme under the *Body Corporate and Community Management Act 1997*; or

(ii) shown on a building units plan or group titles plan under the *Building Units and Group Titles Act 1980*;

(b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*;

(c) a site of a mixed use scheme under the *Mixed Use Development Act 1993*;

(d) a primary or secondary thoroughfare under the *Integrated Resort Development Act 1987* or the *Sanctuary Cove Resort Act 1985*;

(e) a premises group within the meaning of the Water Supply Act, schedule 3.

Explanation

Clause 44 amends section 121 so that an authorised person, appointed by a service provider under the Water Supply Act, and who installs 'relevant water meters' does not commit the offence of performing plumbing work without a licence.

Critically this amendment in the Bill only applies to 'relevant water meters'. Clause 44 defines 'relevant water meters' as various types of primary or 'master' meters – and then provides an offence excuse for when a utility's authorised person installs this type of meter. The definition is tied to the type of property that the meter is connected to and captures meters that service stand-alone properties and the master meters for multi-unit premises.

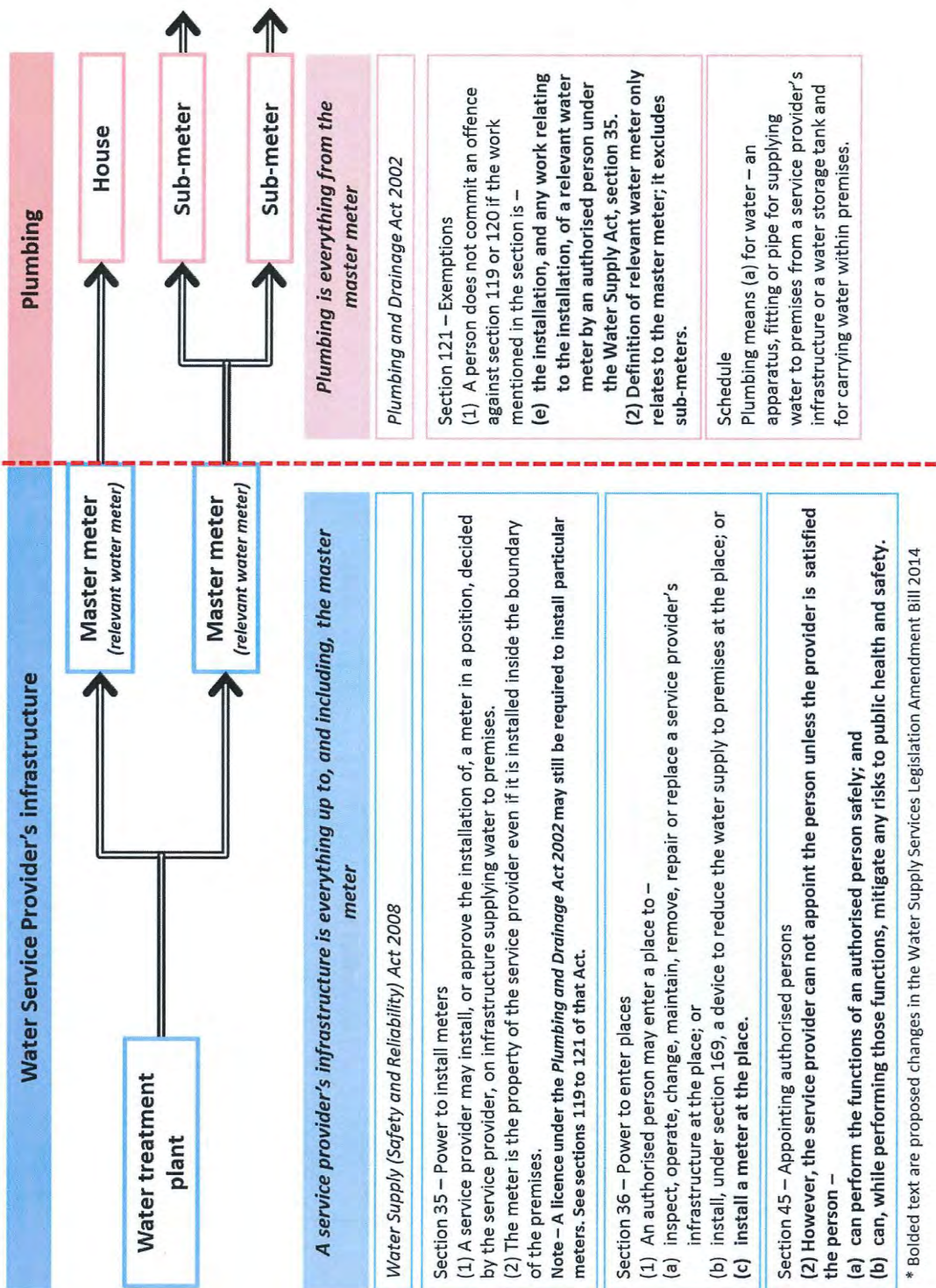
This means that sub-meters are excluded and anyone other than a licensed plumber who installs a sub-meter would be committing an offence. This drafting option was chosen because of the complexity of developing a definition for sub-meters that would be accurate in all conceivable combinations of lot title, business purpose and pipework configuration.

2. Regulation of water meter installation in major Australian jurisdictions

Note: this information was provided direct by regulatory agencies and/or State water corporations in each jurisdiction.

Jurisdiction	Are licensed plumbers required by legislation to install a water utility's own water meters?	Are competencies specified in legislation for the utility workers authorised to install meters?	Meter installation requirements for water utilities
NSW	No	No	<ul style="list-style-type: none"> The water utility decides who installs water meters because they are part of the utility's own infrastructure. In practice Sydney Water generally contracts licensed plumbers to install meters although it is not a statutory requirement.
Victoria	No	No	<ul style="list-style-type: none"> Employees of water utilities that install water meters do not have to be licensed plumbers. Anyone else that installs a water meter can only do so with the approval of the relevant water utility and is required to be a licensed plumber.
Tasmania	Only if new meters are installed by a developer.	No	<ul style="list-style-type: none"> It is not a statutory requirement to use plumbers; it is up to the discretion of the water utility.
South Australia	No	No	<ul style="list-style-type: none"> SA Water (or its outsourced contractors) install all water meters. There is no statutory requirement for them to be licensed plumbers, although they usually are. Personnel are appropriately trained.
Western Australia	No	No	<ul style="list-style-type: none"> Only WA Water Corporation employees can install water meters. These employees do not have to be licensed plumbers.

3. Infrastructure diagram



A service provider's infrastructure is everything up to, and including, the master meter

Water Supply (Safety and Reliability) Act 2008

Section 35 – Power to install meters
 (1) A service provider may install, or approve the installation of, a meter in a position, decided by the service provider, on infrastructure supplying water to premises.
 (2) The meter is the property of the service provider even if it is installed inside the boundary of the premises.
 Note – A licence under the *Plumbing and Drainage Act 2002* may still be required to install particular meters. See sections 119 to 121 of that Act.

Section 36 – Power to enter places
 (1) An authorised person may enter a place to –
 (a) inspect, operate, change, maintain, remove, repair or replace a service provider's infrastructure at the place; or
 (b) install, under section 169, a device to reduce the water supply to premises at the place; or
 (c) install a meter at the place.

Section 45 – Appointing authorised persons
 (2) However, the service provider can not appoint the person unless the provider is satisfied the person –
 (a) can perform the functions of an authorised person safely; and
 (b) can, while performing those functions, mitigate any risks to public health and safety.

* Bolded text are proposed changes in the Water Supply Services Legislation Amendment Bill 2014

Plumbing and Drainage Act 2002

Section 121 – Exemptions
 (1) A person does not commit an offence against section 119 or 120 if the work mentioned in the section is –
 (e) the installation, and any work relating to the installation, of a relevant water meter by an authorised person under the Water Supply Act, section 35.
 (2) Definition of relevant water meter only relates to the master meter; it excludes sub-meters.

Schedule
 Plumbing means (a) for water – an apparatus, fitting or pipe for supplying water to premises from a service provider's infrastructure or a water storage tank and for carrying water within premises.

Plumbing is everything from the master meter

Plumbing

House

Sub-meter

Sub-meter

4. Management plans typically in place for council water service providers prior to the Millennium Drought

The following information relates to requirements under the Water Supply (Safety and Reliability) Act 2008; these provisions were located in the Water Act 2000 prior to 2008. Broader infrastructure management plans are required for local governments under other Queensland legislation. It is not proposed to alter these other requirements through the Bill.

Prior to 2005, Queensland's drinking water service providers were only required to complete Strategic Asset Management Plans. These plans document service standards (set by the service provider) as well as an operations, asset maintenance and renewals strategy for achieving these standards.

The statutory requirements for Drought Management Plans and System Leakage Management Plans were introduced in 2005 in response to issues raised in the National Water Initiative and the Queensland Water Efficiency Task Force about the management of droughts, and the management of leakage loss from distribution systems.

The requirement for Outdoor Water Use Conservation Plans (which only applies to retail water providers outside South East Queensland) was introduced in 2007 to ensure efficient water practices by urban water users. This requirement was amended in 2011 so that the plans are only required if the regulator is satisfied a provider faces a water security risk and adequate measures to ensure efficient use of water by customers are not in place.

Although it is proposed to remove the statutory requirements for the plans mentioned above, the peak industry body *qldwater* will maintain the relevant planning guidelines. These guidelines will be available to the industry so that service providers can utilise this planning approach, if it suits their business needs and operating context.

5. Services Trades Queensland submission: points of clarification

The department has obtained advice about two matters raised in the Services Trades Queensland submission (STQ) to the Committee.

Alleged cross-contamination incident at Redcliffe

The STQ refers to an incident in Redcliffe in January 2014 where it is claimed that a sewerage pipe was cross connected into a stormwater drain. It is alleged by STQ that this was done by water industry workers on the instructions of a major water service provider (presumably Unitywater – the sole provider to this area).

The department has received written advice from Unitywater that it has no record of any work being carried out, or any complaints or calls received at this location.

In the context of the alleged Redcliffe incident (located in Unitywater's service area) the STQ states: "These types of incidents form part of the around 5,700 complaints ...made against Queensland Urban Utilities alone in the last three years". In written advice to the department, Queensland Urban Utilities (QUU) has confirmed that there was only one known cross connection incident in the past three years, an incident at Airport Link (addressed in the departmental briefing note), and that QUU workers did not make the connection.

Incidents reported for Queensland Urban Utilities

The STQ claim in their submission that QUU had almost 200 "water incident complaints" in the last three years. Advice from the Queensland Water Supply Regulator is that in the two and half years, from July 2010 until December 2013, there were 80 drinking water incidents that were classified as reportable. The Regulator notes that the QUU undertakes a significant testing program and that the more testing a provider undertakes, the more likely it is that an issue can be detected and managed.

Department of Health advice to State Development Infrastructure and Industry Committee

The Department of Health is aware that the proposed changes to the *Water Supply (Safety and Reliability) Act 2008* (the Water Supply Act), particularly those proposed changes relating to the installation of water meters, have raised concerns regarding the potential impact on public health and possible inconsistencies with the regulatory approaches adopted by other Australian states and territories. The Department of Health has investigated these concerns and concluded that there is no evidence that the proposed changes would have an adverse impact on public health, nor be out of step with the regulatory approach by other jurisdictions.

Health implications

It has been argued that permitting use of appropriately trained water industry workers will "significantly exacerbate" the risk of contamination of drinking water due to faulty connections. The reality is that water industry employees or contractors are responsible for every aspect of the installation of drinking water infrastructure from the water treatment plant right up to the point where the water meter is installed at each property boundary. The water meter is, and remains, the property of the water service provider, and maintenance and replacement of water meters is already done routinely by water industry workers throughout Queensland. Every water service provider in Queensland has a legal obligation under the Water Supply Act and the *Public Health Act 2005* to provide safe water to customers, and installation and maintenance of water meters falls under this obligation.

Cross connections between drinking and recycled water

There is no conclusive data on the likelihood of cross connections between recycled and drinking water resulting from incorrect installation of meters in Queensland. Examination of incident reports from both Gold Coast Water's Plimpama-Coomera scheme and Unitywater's dual reticulation schemes in SEQ over the past few years has shown that cross connections have resulted from work performed both by licensed plumbers and other non-licensed personnel, including water industry workers. However these incidents are rare and there have not been sufficient incidents to draw generalised conclusions concerning risk.

Other jurisdictions

Advice from the Water Services Association of Australia (the peak industry body for the urban water industry) confirms that Queensland is currently the only jurisdiction in Australia that restricts installation of water meters to licensed plumbers. In all other jurisdictions water meters may be installed either by the relevant water service provider or by a licensed plumber. That is precisely the situation that the proposed amendments to the Queensland Plumbing Code are intended to achieve, and will thereby bring Queensland into conformance with the rest of Australia.

The Department of Health therefore supports the proposed changes.

CLLO-CIC-14023

Queensland
GovernmentDepartment of
Energy and Water Supply

18 March 2014

Mr David Gibson
Chair
State Development Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Gibson

Thank you for your email of 13 March 2014 regarding the advice received by the State Development, Infrastructure and Industry Committee (Committee) on the Fundamental Legislative Principles (FLPs) in relation to the *Water Supply Services Legislation Amendment Bill 2014*.

I would like to thank the Committee for the opportunity to address these potential issues. As requested, attached is the Department's response to the rationale behind these potential FLPs.

If you require further information please contact Mrs Gayle Leaver, General Manager, Water Supply Policy and Economics on (07) 3166 0170.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Dan Hunt'.

Dan Hunt
Director-General
Department of Energy and Water Supply

Att: Water Supply Services Legislation Amendment Bill 2014. Response to fundamental legislative principles raised by the State Development, Infrastructure and Industry Committee.

Page 1 of 1

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Water Supply Services Legislation Amendment Bill 2014

RESPONSE TO FUNDAMENTAL LEGISLATIVE PRINCIPLES RAISED BY THE STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY COMMITTEE

Rights and liberties of individuals

Administrative power

Are the rights, obligations and liberties of individuals dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

Standard connections

The Committee has referred to Clause 21, which inserts chapter 4C, part 4 into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* and provides for internal review and appeals to the Building and Development Dispute Resolution Committee and the Planning and Environment Court.

The Committee's comments are noted. There is no right of internal review or appeal for a standard connection contained within the *Water Supply Services Legislation Amendment Bill 2014 (the Bill)*. Judicial review has not been excluded. The purpose of a standard connection is to enable the distributor-retailer to provide a quick streamlined approval for simple connections. The fundamental legislative principle that rights, obligations and liberties are dependent on administrative power, only if it is subject to appropriate review, has been arguably infringed. However it is considered that the approach for standard connections is justified. A standard connection must be granted by a distributor-retailer if the person complies with a distributor-retailer's criteria for standard connections in the distributor-retailer's connections policy. The standard conditions that apply to such a standard connection are also included in the distributor-retailer's connections policy.

An applicant, prior to making an application for a standard connection will have access to the distributor-retailer's connections policy. The connections policy is required to be consulted on publicly before its finalisation and once finalised will be an easily accessible document made available in the public domain for applicants to refer to prior to submitting their standard connection application. Therefore, an applicant will know prior to making an application if it will meet the documented and published distributor-retailer's criteria for standard connections. If they do not meet the criteria for a standard connection, they will be able to apply to a distributor-retailer for a water approval which has both internal review and appeal rights to the Building and Development Dispute Resolution Committee and the Planning and Environment Court.

Decision criteria contained in a connections policy

The committee has also referred to s 99BRAC which provides for the matters a distributor-retailer must assess a water approval application against, including the decision criteria contained in its connections policy. The Committee's comments are noted.

Not all the distributor-retailer's criteria for a distributor-retailer's assessment is contained within the Bill itself. The fundamental legislative principle that legislation should make rights and liberties or obligations dependent on administrative power only if the power is sufficiently defined, may arguably be infringed. However it is considered that including decision criteria in a connections policy is justified.

1

The connections policy is required to undergo a thorough public consultation process. There is also a requirement for the distributor-retailer to publicly consult on any minor or significant changes to the connections policy. The Bill also states what matters can be included in the connections policy, so the legislation does include defining matters for the connections policy. The Bill also details other decision rules which apply to the assessment. The rationale for including decision criteria in a connections policy as well, was to provide flexibility for changing circumstances in the distributor-retailer's geographic area and as well as any technical changes for different approvals.

Delegation of administrative power

Does the bill allow the delegation of administrative power only in appropriate cases and to appropriate persons?

The Committee has referred to clause 4 which amends section 53 of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* enabling a distributor-retailer to delegate its functions to its participating local government. Clause 4 also provides for an amendment to enable the chief executive officer of a distributor-retailer to delegate their functions to its participating local government who may then sub-delegate to an appropriately qualified person.

The Committee has raised the fundamental legislative principle of ensuring that the delegation of power, and the possible sub-delegation of the power will be carried out by an appropriately qualified person. The Committee can be satisfied that the delegation of the powers are carried out by an appropriate person as these powers would be delegated to the distributor-retailer's owner council as defined in the *South-East Queensland (Distribution and Retail Restructuring) Act 2009*. Similarly the Committee can be satisfied that the sub-delegations are carried out by an appropriately qualified person as there is a specific requirement that the person who is given the delegation is appropriately qualified. Distributor-retailers and their participating council will work together to determine appropriately qualified persons for sub-delegation.

It is noted that the ability to delegate a distributor-retailer's functions as a concurrence agency for a particular development application is contained currently within s 53(5)(b) of the *South-East Queensland (Distribution and Retail Restructuring) Act 2009* and its location in the Act is merely being changed to s 53(5)(c).

Power to enter premises

Does the bill confer power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer?

Clause 12

The Committee has raised clause 12 which inserts a new section 53DNA into the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* to provide for powers of entry for water connection officers and notes that s 53DNA(1)(b) and 53DNA(1)(d) only allows entry with the consent of the owner or pursuant to a warrant. It has raised the ability of an authorised person to enter businesses and public places without a warrant as detailed in Clause 53DNA(1)(a) and 53DNA(1)(c) respectively. The powers which have been allowed for under this Clause in the Bill are consistent with the existing powers in the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* for discharge officers. Examples of where s 53DNA(1)(a) and s 53DNA(1)(c) may be used are provided below.

S 53DNA (1)(a): A water connection officer may enter an aquaculture business. The business may have a water approval authorising a certain level of water demand on the distributor-retailer's infrastructure network system however, the business has increased their water usage substantially without prior approval. The water connection officer is able to enter the premises to perform the officer's functions detailed in s 53CLA including monitoring and enforcing compliance.

S 53DNA (1)(c): A water connection officer may enter a public place as they may need to check compliance against a connection approval for works being carried out on an adjacent property. However, the manhole or access chamber is located on the public place. In order to carry out the necessary function on the adjacent property the officer must access the manhole or access chamber.

Clause 54

The Committee has raised clause 54 which amends s 36 to provide an authorised person may enter a place to install a water meter. The Committee has questioned how in practice a service provider appoints a person to the role of an authorised person to enter places in relation to accessing water meters.

The Authorised Person role in the Water Supply (Safety and Reliability) Act 2008 is about accessing water service provider infrastructure and protecting that infrastructure (and the public that it serves) from harm. It is not characterised as an investigative role. The Bill does not expand those powers, as s35 already provides the power to the service provider to install a meter, and the remainder of the authorised person's powers in Part 3 Division 2 are quite extensive. The only effect of the Bill is to make it clear that the authorised person does not have to be a licensed plumber when installing a meter.

The Authorised Person under the Water Supply Act 2008 does not have the compliance powers such as search or seizure which attach to an Authorised Officer under the Water Supply Act 2008, and Part 3 Division 2 explicitly does not apply to entry to residential buildings because of the operation of s31. The water service provider can only enter after a process of notification, unless the need to enter is an emergency. The only immediate entry power is the s37 power to enter to read a meter, which does not require consent or notification.

Annexure A – Proposed new or amended offence provisions

The Committee can be satisfied that the penalties provided for new offences are consistent and appropriate. Please refer to the attached table which provides further information in this regard.

Clause	Offence	Proposed maximum penalty (\$110 per unit)	Departmental rationale
53DNF	A person to whom a water connection compliance notice is given must comply with the notice unless the person has a reasonable excuse.	Maximum penalty—100 penalty units.	Consistent with the <i>South-East Queensland (Distribution and Retail Restructuring) Act 2009</i> s53DI.
53DRBX	A person, other than a distributor-retailer, must not make a connection without a water approval for the connection.	Maximum penalty—1665 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s578

99BRBY (1)	A person must comply with each standard condition of a standard connection.	Maximum penalty— 165 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s579
99BRBZ (1)	A person must comply with each water approval condition of a water approval.	Maximum penalty— 1665 penalty units.	Consistent with the <i>Sustainable Planning Act 2009</i> s580
108 (1)	A service provider must ensure someone other than the provider does the following, unless the provider has a reasonable excuse— (a) audits its drinking water quality management plan at the intervals stated in a notice given to the provider under section 99; (b) prepares a report (a <i>drinking water quality management plan audit report</i>) complying with this section about each of the audits; gives the regulator each report within 30 business days after the relevant audit is completed.	Maximum penalty— 500 penalty units.	Consistent with existing s141 penalty for annual report
108a (1)	A service provider must ensure someone other than the provider does the following, unless the provider has a reasonable excuse— (a) audits the data in its performance report for each notified year; (b) prepares a report (a <i>performance audit report</i>) that includes data for each KPI submitted in the notified way; (c) gives the regulator each performance audit report on or before the later of the following— (i) 1 October in the notified year; (ii) 30 days after notification of the year.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units

142 (2)	The provider must, unless the provider has a reasonable excuse— (a) prepare a report (a <i>drinking water quality management plan report</i>) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and (b) give the regulator a copy of the report within 120 business days after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
142A (2)	The provider must, unless the provider has a reasonable excuse— (a) prepare a report (a <i>performance report</i>) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and (b) give the regulator a copy of the report on or before 1 October occurring immediately after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
142B (2)	The provider must, unless the provider has a reasonable excuse—(a) prepare a report for the financial year complying with this section (a <i>system operating plan report</i>); and (b) give the regulator a copy of the report within 120 business days after the financial year ends.	Maximum penalty— 500 penalty units.	Consistent with existing reporting penalty units
196AA	The relevant entity for a recycled water scheme, other than a CSG recycled water scheme, must apply for registration of the scheme before the deadline.	Maximum penalty— 500 penalty units.	Public health implications and broadly consistent with Recycled Water framework
196 (2)	The recycled water provider for a single-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.	Maximum penalty— 1665 penalty units.	Consistent with existing penalty—higher exposure schemes could have public health risks if not properly managed

196 (3)	A recycled water provider or other declared entity for a multiple-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.	Maximum penalty— 1665 penalty units.	Consistent with existing penalty— higher exposure schemes could have public health risks if not properly managed
447	A relevant service provider given an improvement notice under section 446 must comply with the notice, unless the provider has a reasonable excuse.	Maximum penalty— 1000 penalty units.	Important protection for public health, escalating scale of enforcement
449	A relevant service provider given a direction under section 448 must comply with the direction, unless the provider has a reasonable excuse.	Maximum penalty— 1665 penalty units.	Important protection for public health, escalating scale of enforcement
575A	A service provider must publish each of its documents mentioned in section 575(1), other than the following, unless the provider has a reasonable excuse— (a) drinking water quality management plans; (b) drinking water quality management plan audit reports; (c) performance audit reports.	Maximum penalty— 50 penalty units.	Smaller scale offences about public confidence
576A	The relevant entity for a recycled water scheme must publish the annual report prepared by the entity under section 273, unless the entity has a reasonable excuse.	Maximum penalty— 50 penalty units.	Smaller scale offences about public confidence



DEPARTMENT OF
Energy and Water Supply

JTS 06581/14

18 March 2014

Hon David Gibson MP
Chair
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Gibson

Thank you for the recent opportunity for officers from the Department of Energy and Water Supply (DEWS) to address the State Development, Infrastructure and Industry Committee about the Water Supply Services Legislation Amendment Bill 2014 at the public hearing on 17 March 2014.

At the public hearing, several requests for further information from DEWS were made. Accordingly, please find attached a document providing further detail on the legislative arrangements that govern water meter installation in other Australian jurisdictions. The department has used its best endeavours to identify relevant provisions to corroborate the advice received from all major jurisdictions in mid-2013 – namely that it is not a statutory requirement that a licensed plumber install a utility's own water meter.

In this regard I note that the industry peak body, the Queensland Water Directorate, sought clarification from the Water Services Association of Australia (WSAA) on this same issue last year. I am advised that WSAA confirmed the advice of jurisdictions as outlined above.

The Committee also requested advice about penalties that have been applied to individuals installing a water meter since the creation of the *Plumbing and Drainage Act in 2002*. DEWS has sought advice from the Department of Housing and Public Works about matters referred to the Plumbing Industry Council that relate to water meters. The Department of Housing and Public Works has advised that, according to the Plumbing Industry Council registrar, since January 2008, six out of the 420 complaints made to the Plumbing Industry Council related to water meters. Of these six complaints, five were found to have no grounds for investigation and one was referred to local government for any further necessary action.

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It is unlikely that this information is reflective of incidents across Queensland. This is because households and businesses would likely contact their council, as their water service provider. The council would then investigate and address the complaint, and the complaint may not be referred to the Plumbing Industry Council.

If you require further information please contact Ms Gayle Leaver General Manager, Water Supply Policy and Economics, on (07) 3166 0170.

Yours sincerely


for **Dan Hunt**
Director-General
Department of Energy and Water Supply

Att: Comparison of state legislation governing water meter installation

Comparison of state legislation governing water meter installation

Note: All states were contacted by the Department of Energy and Water Supply in mid-2013. Each jurisdiction advised that it is not a statutory requirement that licensed plumbers install a water utility's own water meters. The information in this table has been prepared by DEWS officers and where possible this information was corroborated by advice from senior officers in the relevant water corporations or regulatory agencies for each jurisdiction. This information does not constitute legal advice.

Jurisdiction	Is there a head of power for a water utility to install its own water meters?	How is this differentiated from regulated plumbing work?	Are there competencies or qualifications specified for a utility's authorised installer? <i>(Note: in practice a water utility would need to ensure an authorised person has suitable experience or training.)</i>
Victoria	<p>Yes – section 142 of the <i>Water Act 1989</i> (the <i>Water Act</i>) provides for a utility to install a meter on any land and to position it where it considers it appropriate.</p> <p>Section 133 provides a power for an officer of the water authority or an authorised officer to enter land to (amongst other things) read meters, and perform a function under the Act.</p>	<p>Water meters are plumbing but if they are owned by the water corporation, the water corporation's employees can install them notwithstanding.</p> <p>What constitutes 'plumbing work' is provided in the <i>Plumbing Regulations 2013</i>. Regulation 10(1)(n) essentially includes any work done in respect of "water supply" as plumbing work that can only be done by a licensed plumber.</p> <p>Regulation 10(2)(a) however provides that where this type of work is done in respect of plumbing works that are wholly owned or exclusively vested in a water authority under the <i>Water Act</i> (which covers all Victorian water authorities), this work can be done by a person who is not a licensed plumber. Water corporations rely on this regulation to enable their employees to install their water meters without having to be a licensed plumber.</p>	<p>No – competencies or qualifications are not specified for an officer of the water authority regarding any particular work they may perform.</p>

Jurisdiction	Is there a head of power for a water utility to install its own water meters?	How is this differentiated from regulated plumbing work?	Are there competencies or qualifications specified for a utility's authorised installer? <i>(Note: in practice a water utility would need to ensure an authorised person has suitable experience or training.)</i>
South Australia	Yes – section 45 of the <i>Water Industry Act 2012</i> , provides the power for a utility to carry out work on land including to install any water/sewerage infrastructure. Section 62 of this Act empowers a water industry officer to enter land to install, repair or replace any infrastructure, meter, equipment of works, even when these are located on the customer's side of any connection point.	The definition of plumbing work does not appear to include the water meter. Plumbing is defined in the <i>Water Industry Act 2012</i> as water plumbing work, sanitary plumbing work or draining work <u>on the customer's side of the connection point.</u>	No - Part 5 Division 1 of the <i>Water Industry Act 2012</i> provides for the appointment of water industry officers but no competencies or qualifications are specified. SA Water generally uses licensed plumbers, as a matter of utility policy.
Western Australia	Yes - section 78 of the <i>Water Services Act 2012</i> provides that a licensed water utility may install or require the installation of a meter, at a location of their choosing.	The definition of plumbing work does not include the water meter. For the purposes of section 591 of the <i>Plumbers Licensing Act 1995</i> , plumbing work is defined in Part 1 section 4 of the <i>Plumbers Licensing and Plumbing Standards Regulations 2000</i> as follows: (a) water supply plumbing work is work, other than exempt work, that involves the installation, alteration, extension, disconnection, repair or maintenance of pipes and other fittings used or intended to be used for the supply of potable water <u>from a meter assembly to the points of use within any property.</u>	No – competencies or qualifications are not specified for an authorised person regarding any particular work they may perform.

Jurisdiction	Is there a head of power for a water utility to install its own water meters?	How is this differentiated from regulated plumbing work?	Are there competencies or qualifications specified for a utility's authorised installer? <i>(Note: in practice a water utility would need to ensure an authorised person has suitable experience or training.)</i>
Tasmania	Yes – section 56ZB of the <i>Water and Sewerage Industry Act 2008</i> provides that a water utility may install a meter and (after consultation with the owner of the land) determine the location of the meter on that land. Section 56ZA provides that a water and sewerage officer (i.e. an employee of the utility) may enter land to install a meter.	<p>The definition of plumbing work does not appear to include the water meter.</p> <p>A water meter is defined in the <i>Water and Sewerage Industry Act 2008</i> as a device used for the measurement of the flow of water through water infrastructure. Water infrastructure is defined as including infrastructure for the conveyance or reticulation of water and includes the connection point - but does not include anything downstream of the customer's connection point to a water main. A connection point is defined as the point at which the customer's pipes connect with the water infrastructure.</p> <p>Under the <i>Building Act 2000</i>, a plumbing installation is defined to include a system of water supply.</p>	No – Division 2A, subdivision 1 of the <i>Water and Sewerage Industry Act 2008</i> provides for the appointment of a water and sewerage officer but no competencies or qualifications are specified.
NSW <i>Note: different water utilities in NSW are governed by different Acts</i>	Sydney Water Corporation – Yes, sections 37 and 38 of the <i>Sydney Water Act 1994</i> allows persons issued with certificates of authority to enter land to connect and disconnect works or construct new works. Section 99 states that a plumbing license is required for	Section 4 of the <i>Plumbing and Drainage Act 2011</i> defines plumbing and drainage work – it does not include a meter. Plumbing and drainage work means the work that connects, directly or indirectly, with a network utility operator's water supply system. This work is downstream from the point of connection – that is, downstream of the water meter.	No - the relevant provisions that give persons the head of power to install a meter relate to entry powers and do not specify competencies. Terminology and relevant legislative provisions are listed below: - <i>Sydney Water Act 1994</i> : Persons issued with certificate of authority, sections 38 and 39.

Jurisdiction	Is there a head of power for a water utility to install its own water meters?	How is this differentiated from regulated plumbing work?	Are there competencies or qualifications specified for a utility's authorised installer? <i>(Note: in practice a water utility would need to ensure an authorised person has suitable experience or training.)</i>
	<p>certain water infrastructure works, however Sydney Water employees are exempt from this provision.</p> <p>Hunter Water Corporation – Unclear, sections 19 and 20 of the <i>Hunter Water Act 1991</i> allow authorised persons to enter land to connect and disconnect works or construct new works. However, section 69 states that a plumbing licence is required for certain water infrastructure works – it is not clear whether water meter installation is captured in the exemption.</p> <p>Local Government Providers – Unclear, sections 59A, 191 and 191A of the <i>Local Government Act 1993</i> allows council employees to enter premises to carry out water supply work. Section 634 states that a plumbing licence is required for certain water infrastructure works. Most categories of work undertaken by council employees are exempt although it is unclear if this includes water meter</p>		<ul style="list-style-type: none"> - <i>Hunter Water Act 1991</i>: Authorised persons, sections 20 and 21. - <i>Local Government Act 1993</i>: Council employee, section 191 - <i>Water Industry Competition Act 2006</i>: Authorised agent, sections 65A and 65F. <p>Sydney Water generally contracts licensed plumbers to install meters, as a matter of utility policy.</p> <p>A local government provider contacted in NSW confirmed that they interpret the <i>Local Government Act 1993</i> to mean that they can use their own employees to install their own meters.</p>

Jurisdiction	Is there a head of power for a water utility to install its own water meters?	How is this differentiated from regulated plumbing work?	Are there competencies or qualifications specified for a utility's authorised installer? (Note: in practice a water utility would need to ensure an authorised person has suitable experience or training.)
	<p>installation.</p> <p>Private Water Unity – No, section 58 of the <i>Water Industry Competition Act 2006</i> does not appear to allow authorised agents to construct and install a fitting or apparatus after the point of connection to the water main.</p>		
Northern Territory	<p>Yes – section 71 of the <i>Water Supply and Sewerage Services Act, as in force 27 November 2013</i> provides that a licensed water utility can install a meter at a location determined by the utility and that the meter is the property of the utility.</p> <p>Section 77 provides that a services officer (i.e. an employee of the utility) may enter land to install a meter.</p> <p>Section 78 provides that unless a person is authorised to do so by the utility, <u>only the utility or its services officers can install a water meter.</u></p>	<p>The definition of plumbing work does not appear to include the water meter.</p> <p>Plumbing is defined in the <i>Plumbing and Drainers Licensing Act, as in force 28 August 2013</i> as the work of installing, altering, removing or repairing fixtures, fittings and pipes designed to receive and carry sewage or water, and the ventilation of those fixtures, fittings and pipes and includes the installing, altering, repairing, maintaining, removing or connecting of a hot or cold water service to land.</p> <p>No provisions were found that suggest that water meters are captured in the definition of plumbing. This is consistent with section 78 <i>Water Supply and Sewerage Services Act, as in force 27 November 2013</i> which provides that only a utility or its services officer can install a water meter.</p>	<p>No – competencies or qualifications are not specified for a licensee's services officer (refer section 55 of the <i>Water Supply and Sewerage Services Act, as in force 27 November 2013</i>.)</p>

Statements of Reservation

HON. TIM MULHERIN MP
DEPUTY LEADER OF THE OPPOSITION
MEMBER FOR MACKAY
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Mr David Gibson
Chair
State Development, Infrastructure and Industry Committee
Parliament House
George St
Brisbane QLD 4000

Dear Mr Gibson

Statement of Reservation – *Water Supply Services Legislation Amendment Bill 2014*

I write to lodge a Statement of Reservation with respect to the *Water Supply Services Legislation Amendment Bill 2014*. I wish to briefly outline some of the Opposition's main concerns regarding the Bill. The areas of concern mentioned below are not exhaustive and the Opposition will detail additional concerns during the parliamentary debate on the Bill.

Installation of water meters by authorised persons

The Opposition recognises that plumbing is an important skill requiring years of training to obtain the necessary trade qualifications. We share the widely held concerns expressed by the plumbing industry about the dilution of standards that would be caused by this Bill.

The Opposition acknowledges that there is some level of disagreement regarding the interpretation of the provisions of the *Water Supply (Safety and Reliability) Act 2008* (the WSA) and the *Plumbing and Draining Act 2002* (the PDA) when it comes to the licensing requirements for the installation of water meters.

It is clear from the provisions of the PDA that the definition of plumbing work encompasses water meter work and that plumbing work must not be undertaken without a licence (ss119 and 120 of the PDA). The WSA allows a water service provider to install a water meter and appoint an 'authorised person' to do work if the service provider is satisfied the person has the 'necessary expertise or experience to be an authorised person' (ss35 and 45 of the WSA). Nothing in the WSA which was passed in 2008 explicitly overturns the requirement under the earlier PDA that all plumbing work be undertaken by a licensed person. There does not appear to be any explicit intention in the WSA to allow unlicensed plumbers to do water meter work.

Further, the Opposition would suggest that a service provider's decision to appoint an authorised person under s45 of the WSA would require it to have reference to the explicit

licensing requirements in the PDA when determining whether the 'authorised person' had the 'necessary expertise or experience.'

The Opposition believes that the Government's decision to legislate to resolve this disagreement in favour of water service providers and allow unlicensed water service workers to do water meter work is contrary to the explicit intention of the PDA.

The Opposition does not consider that the Committee's recommendation that the Minister consult with the plumbing industry regarding future changes to the regulation of plumbing work is sufficient or in any way addresses the legitimate concerns that have been raised by industry with respect to these changes.

Additionally, it has not been demonstrated to any degree of satisfaction that the proposed changes will result in decreased water costs for Queensland households. The Department was unable to produce any evidence to suggest that there would be significant savings or that these savings would be passed on to consumers.

For those reasons the Opposition will be opposing the aspects of the Bill that remove the requirement that water meter work be undertaken by a licensed plumber.

Yours sincerely



Tim Mulherin MP
Deputy Leader of the Opposition

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Rob Katter MP
Member for Mount Isa



Tuesday 25 March 2014

Statement of Reservation:

Water Supply Services Legislation Amendment Bill 2014

I write to lodge a Statement of Reservation to the State Development, Infrastructure and Industry Committee regarding the above mentioned bill.

I agree with the majority of the recommendations of the report, apart from the first that recommends the bill be passed in its current form.

The component of this legislation with the most potential for adverse impact is Clause 44.

There are certain sections of the report that focus on the impact of Clause 44 where I do not agree with comments made in the report.

I detail these in the following points with accompanying rationale.

- Page 4-5 refers to inconsistencies between industry bodies and the Department over the statutory requirements for licensed plumbers in other states. I am not fully satisfied with the response by the department that it is accurate to say "other states don't have mandated uses".
- Page 5 refers to the benefits of having flexibility available to service providers. I agree with this statement, however it does infer an endorsement of Clause 44, which I do not agree with.

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Freecall within the electorate: 1800 801 569

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- Page 6 refers to the impact of this bill on plumbing work and the committee has commented there is not enough evidence to suggest a significant impact on the plumbing industry. This legislative initiative is driven by demands for efficiency and flexibility which, by their very nature, must remove significant volumes of licensed plumbing work. It is not recognised by the report that even reducing small volumes of work for licensed plumbers in regional areas can remove their incentive for staying in the area. There is an absence of discussion in the report on the impact this bill will have on work volumes for licensed plumbers in regional areas.
- Pace 7-8 refers to the level of qualifications required to perform work on the meters. I believe there needs to be more comment in the report to offset statements made by some of the water services. The unassailable fact surrounding Clause 44 is that plumbers require 4 years of training and, regardless of whether that involves training on water meters, it must provide added protection to utility users from low-skilled, 'authorised persons'. Recommendation 3 does not sufficiently address the risk of having insufficiently trained people performing work on water meters.

Most of my objections revolve around the one issue that is heavily discussed in the report, and that is Clause 44. I believe the department and other water service providers did not adequately demonstrate the need to replace a skilled tradesperson with unqualified people, while still maintaining the integrity of the system.

We trust that this will be given due consideration by the Minister.

Yours Sincerely



ROBBIE KATTER

Member for Mount Isa

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