

Water Supply Services Legislation Amendment Bill 2014

Explanatory Notes

Short title

The short title of the Bill is the *Water Supply Services Legislation Amendment Bill 2014*.

Policy objectives and reasons for them

The Queensland Government is committed to growing a Four Pillar Economy by focussing on tourism, agriculture, resources and construction, and by reducing business and government costs through cutting red tape and regulation. The Government is also striving to make local governments more autonomous and to improve transparency and accountability for customers.

The objectives of the Bill are to:

1. provide a streamlined process for water and sewerage connection approvals (utility model) for South East Queensland (SEQ) distributor-retailers
2. transform the regulation of water and sewerage service providers
3. reduce the regulatory burden on recycled water providers
4. 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
5. enable authorised persons appointed by a water service provider to install certain water meters, in addition to licensed plumbers
6. streamline appeal provisions relating to dam safety matters
7. repeal the *Metropolitan Water Supply and Sewerage Act 1909* (Metropolitan Water Act).

Streamlined process for water and sewerage connection approvals

The two SEQ distributor-retailers were established in 2010 to provide retail water supply and sewerage services. Unitywater is owned by Sunshine Coast Regional, Moreton Bay Regional, and Noosa Shire councils. Queensland Urban Utilities is owned by Brisbane City, Ipswich City, Lockyer Valley Regional, Scenic Rim Regional and Somerset Regional councils. Since 2010 the distributor-retailers have operated under a temporary delegated assessment approval process for water and sewerage requested by the Council of Mayors SEQ. This temporary arrangement is to be replaced by a permanent process known as the utility model.

Under the temporary delegated assessment approval process, local governments issued approvals on behalf of distributor-retailers under the *Sustainable Planning Act 2009* (Sustainable Planning Act). 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* (Water Supply Act) for issuing water and sewerage connection approvals. 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.

For SEQ distributor-retailers the utility model will create a single approval with quicker technical assessments for connecting premises to water and sewerage services.

Transform the regulation of water and sewerage service providers

In Queensland urban water and sewerage services are delivered mainly by local governments. The current regulation of these providers under the Water Supply Act is a burden, has not improved asset management or water security, and does not adequately identify or seek to address risks.

The Water Supply Act currently requires the submission and continuous review of strategic asset management plans, system leakage management plans, drought management plans and outdoor water use conservation plans. These plans are costly to develop and do not always contribute to effective asset management or water security planning. Routine self-monitoring of performance by providers does not occur uniformly across the water sector, which has sometimes resulted in the State managing water security crises and funding remedies.

Almost half of the 173 registered service providers supply untreated water to customers for non-drinking purposes such as irrigating crops or stock watering. Many of these providers have contracts with customers. As these providers do not supply essential drinking water and sewerage services to communities, it is appropriate to reduce their regulatory burden.

There is also scope to improve transparency and accountability for water and sewerage service customers. Many customers have little understanding of the complexity behind the services being delivered and have no way to compare their provider's performance with other providers.

Service providers, the Local Government Association of Queensland (LGAQ) and industry bodies have advocated the need for reform to move from process monitoring and compliance to public reporting on performance and stronger business responsibility and accountability.

Reduce regulatory burden on recycled water providers

The current recycled water regulatory framework does not significantly differentiate between recycled water schemes on the basis of risk. Some schemes supply recycled water for uses involving lower exposure of the public to the water (e.g. irrigation of turf and woodlots). Other schemes supply recycled water for higher exposure uses (e.g. irrigation of lettuces or rockmelons). Nevertheless, all schemes currently require an approved recycled water management plan or an exemption, and are required to monitor water quality and report to the regulator.

The current provisions are not proportional to the risk posed by lower exposure uses and therefore discourage providers from supplying recycled water. A number of recycled water providers have ceased to supply recycled water due to the cost and effort of meeting regulatory requirements.

Improve the operation of councils and distributor-retailers in SEQ

The SEQ distributor-retailers and the local governments which withdrew from Allconnex Water (Logan, Redland and Gold Coast City councils) have encountered inefficiencies in the operation of the *South-East Queensland (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act). These include:

- only three councillors are allowed on the board of a distributor-retailer – Queensland Urban Utilities has five participating local governments and it is appropriate for each local government to have a representative on the board to ensure equal representation
- the requirement for draft water and sewerage charges to be published in March each year (for implementation in July) is difficult for the withdrawn councils as this time frame does not align with their budget processes under the *Local Government Act 2009*.

Enabling water service provider authorised persons to install water meters

There is a lack of clarity between the provisions of the *Plumbing and Drainage Act 2002* (Plumbing and Drainage Act) and the Water Supply Act about whether the installation of water meters is plumbing work that may only be carried out by licensed plumbers. Under the Plumbing and Drainage Act, installation of a water meter is work that must be done by, or under the supervision of, a licensed plumber. Water meters installed on a service provider's infrastructure are owned by the water service provider even where they are located inside the boundary of premises.

Restricting the installation of these meters to licensed plumbers tends to impose costs on providers who can otherwise undertake work on their infrastructure using appropriately trained and experienced staff. 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. This will also enable service providers and developers to realise any potential savings in time and money. Service providers will still be able to engage a plumber to do the work, if that is the best option.

The installation of sub-meters for multi-unit complexes will remain plumbing work that may only be done by a licensed plumber given the more complicated plumbing that typically surrounds this type of meter, which is commonly located within a building.

Streamline appeal provisions relating to dam safety matters

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.

Repeal of the Metropolitan Water Supply and Sewerage Act 1909

The Metropolitan Water Act established and governed the operations of the Metropolitan Water Supply and Sewerage Board until it was disestablished in 1928 and its powers were assigned to the Brisbane City Council. The Metropolitan Water Act is now redundant because its provisions have been progressively superseded by more contemporary legislation (most recently the Water Supply Act, the SEQ Water Act and the *City of Brisbane Act 2010*).

Achievement of policy objectives

The Bill supports the Government's policy of cutting red tape by addressing immediate regulatory burden and regulatory complexity related to water and sewerage service provision. The proposals contained in the Bill will promote more autonomous local governments and other water entities, as well as increase transparency and accountability for customers.

To achieve the policy objectives, the Bill amends the *Plumbing and Drainage Act 2002*, the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, the *Sustainable Planning Act 2009* as well as the Sustainable Planning Regulation 2009, and the *Water Supply (Safety and Reliability) Act 2008*. Furthermore, the Bill repeals the *Metropolitan Water Supply and Sewerage Act 1909*.

Streamlined process for water and sewerage connection approvals

The Bill will achieve the objective of providing a streamlined process for water and sewerage approvals for SEQ distributor-retailers by merging the two current approvals under the Water Supply Act and the Sustainable Planning Act.

The utility model has been customised for all scales of development to allow effective and timely water and sewerage connections whether for a single property or major developments such as a new housing estate. Standard connections with standard conditions apply to simple connections such as 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.

The Bill provides for:

Water connections approvals

The Bill provides for water approvals for connection to water or wastewater infrastructure of a distributor-retailer. Applications for standard connections that meet standard criteria will be able to receive a grant of the request for a connection to water or wastewater infrastructure of a distributor-retailer within five business days and a decision notice will be issued within a further five business days, unless another period is agreed to.

The Bill provides for water approvals for connection to water or wastewater infrastructure of a distributor-retailer, other than a standard connection. A distributor-retailer must consider the decision criteria in its connection policy and the SEQ design and construction code in deciding the application for connection. A distributor-retailer must guarantee connection to water or wastewater infrastructure if a connection complies with the distributor-retailer's connection criteria in its connection area.

A customer can obtain a service advice notice at any time to obtain advice about the proposed connection, the charges and conditions that may apply, and any other relevant matters.

Staged water connection approvals

The Bill provides for staged water connection approvals for large developments. It is intended that a staged water connection process will be used where an applicant has a large subdivision development that will occur over a number of years and may require an approval for each stage of the development as well as the initial approval to connect the development to the network. For an approval for each stage of the development, there would be detailed engineering design plans which would specify how infrastructure works are to be carried out. This enables a developer to construct stages of the development when they choose and is more cost-effective.

Use of third parties

The Bill allows for the use of an accredited third party (a nominated person endorsed by a distributor-retailer) to certify documents or infrastructure works, or to undertake the physical connection to the distributor-retailer's infrastructure.

Agreements about conditions of a water approval

The Bill provides for water approval condition agreements that enable an applicant or water approval holder to enter into an agreement about the conditions of a water approval. An applicant can enter into an agreement with a distributor-retailer or another entity about the performance of a condition of a water approval or to establish the obligations of a condition. This enables the entering into an agreement which details further how the conditions would be met. For instance the agreement may be between the applicant and a distributor-retailer concerning how a requirement for third-party certification of documents, infrastructure works or the physical connection to the distributor-retailer's infrastructure would be satisfied. This could include procedural matters concerning how the third-party certification is to occur. This agreement is not limited to a staged water connection and is not a water infrastructure agreement.

Water netserv plans and connections policies

A water netserv plan is a distributor-retailer's plan for water and sewerage provision in its geographic area over a 20 year time period. It integrates land use planning and planning for water and sewerage infrastructure and includes a distributor-retailer's connection policy. The Bill makes minor amendments to the current process for making or amending a water netserv plan, including clarifying requirements about public consultation and endorsement by participating local governments and the Planning Minister before its adoption by the distributor-retailer.

The Bill also sets out the matters a distributor-retailer must include in its connections policy in a water netserv plan including criteria for standard connections, staged connections, and other categories of connections. An interim connections policy is to be adopted by an SEQ service provider by 1 July 2014. A full water netserv plan is required by 1 October 2014.

Details of charges that may be levied including a connection charge, a property service works charge, and an adopted infrastructure charge are to be included in a charges schedule in a distributor-retailer's water netserv plan. Connection charges and property service works charges are consistent with charges that previously could be imposed under the Water Supply Act for a connection. Adopted infrastructure charges are consistent with those that previously were imposed under the Sustainable Planning Act.

Infrastructure

The Bill provides for water and wastewater infrastructure conditions for a water approval (trunk and non-trunk conditions), adopted infrastructure charges and notices, and water infrastructure agreements. These are consistent with the current approach for infrastructure matters under the Sustainable Planning Act.

Enforcement and compliance

The Bill provides for offences for contravening a water connection compliance notice, connecting without a water approval, failing to comply with the standard conditions of a standard connection, and failure to comply with the conditions of a water approval. New compliance powers for water connection officers are provided to support the utility model, which include show cause notices and water connection compliance notices. Enforcement orders to remedy or restrain the commission of a water connection offence and for damages are also provided.

Appeals and internal reviews

The Bill provides for appeals to a Building and Development Dispute Resolution Committee for specified matters and appeals to the Planning and Environment Court (other than for a standard connection). However, every appeal is by way of internal review of the decision to a distributor-retailer (other than for a standard connection or for a water connection compliance notice) in the first instance.

Transitional arrangements

The Bill includes transitional provisions so that development applications received before the utility model commences on 1 July 2014 (including those that have a development approval before 1 July 2014) will continue to be dealt with under the Sustainable Planning Act and the delegated assessment process, including compliance assessment, the giving of adopted infrastructure charges notices, entering into infrastructure agreements and the application of offset and refund provisions.

Staged development approvals made before the utility model commences 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.

Infrastructure agreements and adopted infrastructure charges notices in force before the utility model commences will continue. The Bill provides for continuation of adopted infrastructure charges under the Sustainable Planning Act until a distributor-retailer's board makes a decision under the SEQ Water Act for adopted infrastructure charges.

Definitions

The Bill provides for new definitions necessary to give effect to the new water approval process including for 'property service connections' and 'network connections'. A property service connection involves the connection of property service infrastructure and is usually connection of a single house to a distributor-retailer's existing water or wastewater network. A network connection is the connection of new network infrastructure from a development to a distributor-retailer's existing water or wastewater network infrastructure.

Transform the regulation of water and sewerage service providers

The Bill transforms the current regulatory framework by moving the focus from process to outcomes and transparency.

The Bill removes the requirements from the Water Supply Act for strategic asset management plans, system leakage management plans, outdoor water use conservation plans and drought management plans and replaces them with annual reporting on key performance indicators. Drinking water service providers, however, will still be required to prepare and comply with an approved drinking water quality management plan to protect public health.

The annual performance reporting requirement will only apply to drinking water and sewerage service providers, although other water service providers can be required to complete annual performance reporting if prescribed by regulation.

Transparency and accountability for customers will be improved by requiring service providers to consult on and publish customer service standards as well as publish annual reports. Additionally, the Department of Energy and Water Supply (DEWS) will publish an annual comparative report on the water sector in consultation with industry.

Performance monitoring and reporting is good business practice and is already undertaken by many service providers. For example, some providers already voluntarily report annually on key performance indicators for the National Performance Reporting Framework and to the Bureau of Meteorology. The proposed framework in the Bill will complement existing systems and this will reduce start-up costs for those providers already reporting. However, the weakest performers are unlikely to participate in a voluntary scheme.

The Bill outlines a process for the regulator to monitor performance, trigger investigations and require improvement plans or, in crisis situations, to direct providers to undertake actions to address an imminent threat to water security or continuity of supply (including for a sewerage service). A separate process to introduce penalty infringement notice offences is being progressed in consultation with the Department of Justice and Attorney-General to improve compliance with the Water Supply Act.

The performance reporting framework in the Bill will be used to monitor certain indicators of the environmental performance of water and sewerage service providers, in place of the former requirement under the *Environmental Protection (Water) Policy 2009* (EPP Water) for local governments to prepare total water cycle management plans.

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.

The requirement under the Water Supply Act for water service providers to pass on water consumption data to tenants is omitted to remove an unnecessary regulatory burden.

The Bill makes a change 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. This is consistent with a similar provision for minor amendments to recycled water management plans.

Reduce regulatory burden on recycled water providers

The Bill removes the requirement for recycled water providers that supply recycled water for lower exposure uses to have approvals under the Water Supply Act. Only recycled water schemes declared to be ‘critical schemes’ (such as schemes supplying to power stations) and schemes with the potential to expose people to ingestion of significant quantities of recycled water (higher exposure schemes) will be required to have a recycled water management plan under the Water Supply Act.

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.

The regulator will also have 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.

Under the *Public Health Act 2005* (Public Health Act) all recycled water providers will still be required to supply recycled water that is ‘fit for use’.

A new register of recycled water schemes will be established that will provide information to the Department of Health about where water recycling activities are occurring to assist in public health surveillance. Should it be necessary, both regulators (the Department of Health and DEWS) have intervention and directions powers to address public health risks that may arise. The regulator will also publish details of the registered schemes on DEWS's website.

Recycled water providers will need to register their schemes with the regulator by certain dates (depending on the type of scheme and when it commenced supply). This will require completion of a simple registration form, and the updating of details if they change over time. Coal seam gas (CSG) recycled water schemes are excluded from the registration requirements as they must have a recycled water management plan or exclusion decision, meaning that the regulator already has detailed knowledge of each scheme. Registration of schemes will not involve assessment by the regulator of the information contained in the application, beyond considering if sufficient information has been submitted to allow for registration of the scheme.

Improve the operation of councils and distributor-retailers in SEQ

The Bill amends the SEQ Water Act to improve the operation of SEQ service providers (distributor-retailers and withdrawn councils) by:

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

This supports the policy objectives of reducing red tape and making local governments more autonomous.

Enabling water service provider authorised persons to install water meters

The Bill will allow authorised persons appointed by a water service provider to install the main or master water meter for premises on the service provider's infrastructure. This will enable service providers and developers to realise any potential savings in time and money. Service providers will still be able to engage a plumber to do the work, if that is the best option.

This supports the policy objectives of reducing red tape and making local governments more autonomous.

Streamline appeal provisions relating to dam safety matters

The Bill streamlines the review and appeal provisions of the Water Supply Act to direct all appealable decisions relating to dam safety matters to the Planning and Environment Court.

Repeal of the Metropolitan Water Supply and Sewerage Act 1909

The Bill repeals the Metropolitan Water Act, achieving significant red tape reduction.

Alternative ways of achieving policy objectives

Streamlined process for water and sewerage connection approvals

There are no alternative reasonable ways of achieving the policy objective for a streamlined water and sewerage approval for SEQ distributor-retailers. The options considered were:

- continuing with the interim delegated assessment model with or without minor changes
- giving distributor-retailers a concurrence referral under the Sustainable Planning Act and the Sustainable Planning Regulation 2009.

Option 1: The interim delegated assessment model involved giving distributor-retailers a concurrent assessment jurisdiction as part of the Integrated Development Assessment System (IDAS) under the Sustainable Planning Act and the Sustainable Planning Regulation 2009, regarding the effects of development applications on their water or sewerage infrastructure and services. Their power to assess applications and to approve or refuse was then mandatorily delegated back to their participating local governments, which issued a development approval covering water and sewerage issues. The approval was based on technical advice from the distributor-retailer to the local government. The delegated assessment model was an acceptable temporary solution but was limited by coordination and timing difficulties, and confusion about roles and responsibilities.

Option 2: Giving distributor-retailers a concurrence referral for water and sewerage matters would have involved almost 100 per cent of development applications made to a local government as assessment manager being referred to the relevant distributor-retailer. The distributor-retailer would have needed to assess all applications received without the opportunity to apply any streamlining or third-party assessment approaches due to a strict application process and associated timelines for concurrence approvals.

Stakeholders did not support either of these options. Other options such as self-regulatory, co-regulatory or non-regulatory were not suited to the proposed reforms. Therefore, these approaches were rejected.

Transform the regulation of water and sewerage service providers

Maintaining the current requirements would retain an ineffective system and regulatory burden and potentially expose the State to significant financial risk through service provider underperformance leading to asset failure and water security threats.

No alternative reasonable option was found to achieve the policy objectives. Alternatives to the recommended option (performance reporting) that were considered and rejected included:

Option 1: Replace the range of mandatory management plans with a single, risk-based management plan to manage risks, across a variety of business areas, related to continuity of supply and public health and safety.

A single risk-based management plan might have reduced regulatory burden and improved performance through a focus on risk reduction and the development of a more forward-looking planning instrument. However, option 1 was rejected because:

- the framework would not have used service provider comparative analysis as a ‘reputational incentive’ or improved elected member buy-in to strategic asset management, nor promoted transparency and accountability for customers
- it would have been costly for service providers to assess and document their risks in a format outlined by the State and to redevelop existing plans to match that format
- there would have been significant initial costs to the State in supporting service providers and reviewing their risk assessments
- it would not have supported local government autonomy and would have regulated inputs rather than performance, and so might have been no more effective than the existing framework
- a degree of duplication with other requirements would have remained, for example, the asset management plan required under the *Local Government Act 2009*.

Option 2: Withdraw the requirement for a range of mandatory management plans in favour of a minimal regulatory oversight role for the State.

Service providers would have only been required to develop customer service standards and maintain their registration. Public health risks would have continued to be addressed through the drinking water quality regulatory framework. The statutory requirements for strategic asset management plans, system leakage management plans and drought management plans would have only been triggered as a result of compliance action by the State in the event of poor performance and planning by a service provider.

The minimal regulatory oversight approach would have reduced regulatory burden and costs for the State. However, option 2 was rejected because:

- there would have been less forewarning of emerging issues, water security threats and asset failure and the State may have been required to subsidise costs (at a premium) to remedy problems with services in a crisis situation
- the proposal was out-of-step with other Australian jurisdictions and worldwide, where monopoly providers of essential services are regulated to protect customers and to mitigate risks to government
- the framework did not provide transparency and accountability as a means to drive performance
- the framework did not make use of comparative analysis as a ‘reputational incentive’ to drive performance and therefore may have been no more effective than the existing plan-based framework.

Reduce regulatory burden on recycled water providers

The Water Supply Act regulates the production and supply, or supply only, of recycled water where the source of recycled water is:

- sewage or effluent from a service provider’s sewerage network
- wastewater from commercial, industrial or manufacturing activities
- CSG water that augments a supply of drinking water.

The Public Health Act contains provisions which complement the Water Supply Act framework. The supply of recycled water is a ‘State public health risk’ under the Public Health Act and a recycled water provider has a general duty under the Public Health Act to supply recycled water that is ‘fit for use’.

A range of options to simplify the regulation of recycled water providers was considered in consultation with industry. Only one option (other than the recommended option) emerged as a viable proposal.

Alternative Option: Standard requirements for lower exposure uses

This option would have introduced a simple registration process for recycled water schemes supplying to lower exposure uses. These schemes would still have been regulated under the Water Supply Act and would have been subject to standardised requirements and other obligations such as reporting noncompliance with water quality criteria. Standard requirements could have included requirements that apply to particular end uses, such as control measures (e.g. method of application, buffer areas, signage and restricting access when recycled water in use), water quality and monitoring requirements.

Many recycled water schemes supplying to lower exposure uses would not have needed to be assessed by the regulator unless they could not comply with the standard requirements. A case-by-case assessment, approval and conditioning would have applied to schemes that could not meet the standard requirements or that wished to innovate or vary from these.

This option would have provided a risk-based regulatory regime that was outcome focused. However, it would have also increased the complexity of the regulatory framework by introducing another tier of regulation (that of standard requirements). Also it would not have significantly reduced regulatory burden because of the number of schemes which would have fallen outside the standard requirements and therefore required individual assessment.

Estimated cost for government implementation

Streamlined process for water and sewerage connection approvals

The State Government will not incur any additional costs in the implementation and support of the utility model. The distributor-retailers will implement the utility model.

Transform the regulation of water and sewerage service providers

Costs to Government to implement the Bill will be met from within existing departmental budgets. The reforms are expected to reduce administrative costs on Government. Implementation costs for an initial period will include: training of staff to implement the new regulations; staffing and basic data management for DEWS to compile and publish a comparative benchmarking report; and preparation of information materials to inform water service providers of their new requirements.

Reduce regulatory burden on recycled water providers

Costs to Government to implement the Bill will be met from within existing departmental budgets. The reforms are expected to reduce administrative costs on Government as the regulator will no longer be required to pro-actively regulate recycled water schemes that involve lower exposure uses. This avoids the need to assess plans, exemption applications, or annual reports.

Initial implementation costs for Government will relate to preparation of information materials, training of staff, updating existing guidelines and forms, developing new forms, preparation of a best practice guideline, establishing a register, and registering recycled water schemes.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles relate to amendments of the SEQ Water Act and are addressed below.

Whether legislation has sufficient regard to the rights and liberties of individuals.

Clause 12 of the Bill inserts new section 53DNA which provides for compliance powers of entry for water connection officers. Compliance powers include a right to enter: an open place of business the subject of a water approval, an open public place, where the occupier consents or by a warrant. These powers are consistent with the existing powers in the Act for discharge officers. Appropriate limitations have been placed on these powers of entry. They do not include the power to enter a building or structure used for residential purposes unless there is a warrant.

Clause 21 of the Bill inserts chapter 4C, part 4 into the SEQ Water Act, which provides for internal review and for appeals to the Building and Development Dispute Resolution Committee and the Planning and Environment Court. No internal review or right of appeal has been provided for standard connections. Standard connections are for simple connections that meet the standard criteria (e.g. connection of a single house). The purpose of standard connections is to 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.

Clause 21 of the Bill inserts new section 99BRAG into the SEQ Water Act which includes the decision criteria distributor-retailers must consider when assessing an application for a water connection. This includes the decision criteria in the connection policy. Clause 18 of the Bill inserts new section 99BOA(a) which details matters which must also be included in the connections policy in addition to the requirements in section 99BO(1)(f). The Bill provides some administrative and process matters for assessment of connections applications in the legislation itself as well as some assessment criteria being included in the connection policy. The Bill also details other decision rules in section 99BRAH and details what relevant and reasonable conditions may be imposed for a water connection approval in section 99BRAJ.

The connections policy is a document which goes through a public consultation process, including consideration of submissions made. It is made publicly available when finalised. There is also a requirement to publicly consult on any minor or significant changes to the connections policy. Both industry and distributor-retailers are supportive of the flexibility provided by having decision criteria in a connections policy and the reduction of red tape it provides. Having decision criteria in the connections policy of a water netserv plan is consistent with the approach under which planning schemes set criteria for deciding a development application and the category of assessment that will be applied (i.e. code assessment or impact assessment).

Clause 25 of the Bill inserts a new section 137 into the SEQ Water Act, which requires a distributor-retailer board to adopt an interim connections policy by 1 July 2014. The Bill provides distributor-retailers with powers to assess water supply and sewerage connection applications. Connection applications are proposed to be made to distributor-retailers from 1 July 2014. As a result distributor-retailers must have a connections policy by 1 July 2014 to be able to assess any water supply and sewerage connection applications received. Distributor-retailers are well aware of this obligation. They have been provided with a copy of the exposure bill and intend to commence consulting on the interim connection policy at the end of February 2014.

Clause 25 of the Bill inserts new section 140 into the SEQ Water Act, which requires that a distributor-retailer board adopt a schedule of works by 1 July 2014. A schedule of works is also required in order to undertake assessment and infrastructure conditioning of water and sewerage connection approvals. Distributor-retailers are aware of this obligation.

Consultation

Streamlined process for water and sewerage connection approvals

There has not been broad community consultation on the Bill. However, there has been detailed consultation with the distributor-retailers, impacted local governments and industry throughout the development of the utility model. A series of workshops have been conducted on the draft Bill with distributor-retailers and participating local governments. Workshops on the draft Bill have also been held with industry groups including the Property Council of Australia, the Housing Industry Association, the Queensland Master Builders Association and the Urban Development Institute of Australia.

Distributor-retailers, local governments and industry are supportive of the utility model and the Bill.

Transform the regulation of water and sewerage service providers

Consultation on the Bill has been undertaken with LGAQ and the Queensland Water Directorate (*qldwater*), which represent most water and sewerage service providers in Queensland.

These stakeholders support the proposed reforms, but expressed concern at the need to protect and appropriately resource the core of industry regulation and planning, for example drinking water quality management plans. In LGAQ's submission to "Queensland's Water Sector: 30 Year Strategy" LGAQ stated "it is LGAQ's position that the development of any new regulatory framework should focus on the 'outcomes' from regulation as opposed to 'processes and plans'".

In *qldwater*'s submission they stated: "The Regulator must build and maintain an outcomes-based performance monitoring program that benchmarks and recognises strong performance and retains powers of intervention where performance is below industry-agreed benchmarks. Such a framework must include transparent public accountability and an escalating scale of interventions and penalties for those that fall below industry-agreed and transparent minimum trigger levels."

Feedback on the proposed reforms has also been sought from all registered water and sewerage service providers. Many providers have indicated support for the reforms and no negative feedback was received from providers.

Reduce regulatory burden on recycled water providers

In relation to the proposals about simplifying recycled water regulation, DEWS was assisted by a business advisory group comprised of recycled water providers from a cross section of the industry. This group supports the proposed reforms. State agencies consulted include the Departments of Health; Justice and Attorney-General (Workplace Health and Safety Queensland); Environment and Heritage Protection; Local Government, Community Recovery and Resilience; Community Safety (Queensland Fire and Rescue Service); and Public Works and Housing (Building Codes Queensland). All agencies consulted support the amendments.

Enabling water service provider authorised persons to install water meters

Consultation on the amendments relating to installation of water meters has been undertaken with the Master Plumbers Association of Queensland and the Plumbers Union QLD. These entities oppose the proposed amendments to enable authorised persons appointed by a water service provider to install water meters. Currently, they consider that only a licensed plumber should install a main or master water meter, as well as sub-meters, and these stakeholders are concerned there will be negative impacts on drinking water quality and therefore on the health and safety of customers. They also stated concerns about loss of work for licensed plumbers.

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.

There will be no net reduction in employment (i.e. the same number of water meters will still need to be installed). Under the amendments authorised persons will only have authority to install the main or master meter on the service provider's infrastructure. Sub-meters will still only be able to be installed by a licensed plumber.

DEWS and the Department of Health consider there is no discernible change to health and safety risks because of the proposed amendment. A service provider cannot appoint an authorised person to install a water meter unless they are satisfied the person has the necessary expertise, experience or has completed suitable training. The Bill strengthens these provisions by requiring a provider to also be satisfied that the person can perform the functions safely and, while performing those functions, mitigate any risks to public health and safety.

Consistency with legislation of other jurisdictions

Streamlined process for water and sewerage connection approvals

The utility model is consistent with the approach for other utilities such as electricity and is consistent with the approach for water utilities in other State jurisdictions. The utility model has been developed to take specific account of Queensland's unique geographical and structural arrangements.

Transform the regulation of water and sewerage service providers

The Bill is specific to the State of Queensland and is not uniform with, or complementary to, legislation of the Commonwealth or another state. However, the proposal to introduce performance reporting for water and sewerage service providers aligns with the national framework which all other Australian jurisdictions participate in. It also aligns with the regulatory oversight regime in New South Wales (which has a similar industry profile to Queensland with a predominance of local government water and sewerage service providers). Regulatory oversight of providers in New South Wales includes reporting on key performance indicators and publishing a comparative benchmarking report on an annual basis.

Enabling water service provider authorised persons to install water meters

The proposed reform of the installation of water meters aligns Queensland with practices in other Australian jurisdictions.

Notes on provisions

Chapter 1 Preliminary

Short title

Clause 1 establishes the short title of the Act as the *Water Supply Services Legislation Amendment Act 2014*.

Commencement

Clause 2 provides that the Act, other than the provisions mentioned in subsection (2) commences on a day to be fixed by proclamation.

Subsection (2) states the provisions of the Act that commence on assent. The provisions which commence on assent include: chapter 3 and chapter 4 of the Bill; amendment 15 of the SEQ Water Act in schedule 1 of the Bill; and amendments 1 to 20, and 23 of the Water Supply Act in schedule 1 of the Bill.

Chapter 2 SEQ water infrastructure and connection reforms

Chapter 2 includes amendments to achieve the policy objective of providing a streamlined process for water and sewerage connection approvals (called the utility model) for SEQ distributor-retailers.

Part 1 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Act amended

Clause 3 provides that this part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

Amendment of s 53 (Delegation)

Clause 4 amends section 53 and the distributor-retailer's delegation powers to include the ability to delegate its functions to its participating local governments for:

- appointing water connection officers under chapter 2C
- new chapter 4C (Water approvals and infrastructure)
- its functions as a concurrence agency for a particular development application.

Clause 4 also amends section 53 to enable a chief executive officer of a distributor-retailer to delegate their functions for internal review, for example, in instances where the participating local government assessed the application for a connection. A delegation of a chief executive's power to a participating local government may permit the sub-delegation of the power to an appropriately qualified person.

The amendments also remove the previous delegations to participating local governments that applied, namely: mandatory delegation of concurrence powers under IDAS for water and sewerage aspects of development approvals; the mandatory delegation of compliance assessment for such approvals; the optional delegation of infrastructure charges; and the optional delegation for connections under the Water Supply Act.

Amendment of s 53AQ (Provision about service areas—after water netserv plan is in effect)

Clause 5 amends section 53AQ to reflect that an SEQ service provider will now adopt a water netserv plan under section 99BRAB before 1 October 2014. It also inserts an amendment so that a service area under the Water Supply Act will for a distributor-retailer be taken to be a reference to a connection area of the distributor-retailer unless otherwise stated.

Amendment of s 53BI (Requirements for carrying out work)

Clause 6 amends section 53BI to allow a distributor-retailer to carry out water infrastructure work on a publicly controlled place if there is a written consent arrangement.

The consent arrangement may:

- apply to one or more locations
- be subject to the SEQ design and construction code
- be subject to reasonable conditions
- provide for the distributor-retailer to give a water approval for the infrastructure without a public entity approval if the arrangement is for water infrastructure within an agreed location on a road
- provide for a person identified in the consent arrangement to carry out water infrastructure work on a publicly controlled place.

This section enables a distributor-retailer and a public entity to enter into a broad consent arrangement without the need to apply for approval for each instance and location of water infrastructure work.

Amendment of s 53BJ (Obtaining public entity's approval)

Clause 7 amends section 53BJ to include the ability for a distributor-retailer to obtain a public entity's approval for a consent arrangement. A public entity must after 20 business days in relation to an application for a consent agreement for water infrastructure work decide to enter into the consent agreement.

Amendment of s 53BK (Conditions of approval)

Clause 8 amends section 53BK to provide that a public entity may impose conditions on a consent arrangement it considers reasonable.

Amendment of s 53BO (General obligations in carrying out work)

Clause 9 is a consequential amendment to the amendment that enables a distributor-retailer and a public entity to enter into a consent arrangement for water infrastructure work on a publicly controlled place. The amendment will require a distributor-retailer under a consent agreement to comply with general obligations in carrying out work and the conditions of a consent arrangement.

Amendment of s 53CK (Appointment and other provisions)

Clause 10 amends section 53CK to enable water connection officers to be appointed.

Section 53CK now provides for appointment of discharge officers and water connection officers. A person may be appointed to either or both positions if they have been appointed by a distributor-retailer as an ‘authorised person’ under the Water Supply Act. A person may be appointed as a discharge officer or water connection officer if the distributor-retailer is satisfied the person has the necessary expertise or experience to be a discharge officer or water connection officer.

Subsection (5) allows for one identity card to be issued for all appointments.

Insertion of new s 53CLA

Clause 11 inserts new section 53CLA to prescribe the functions of a water connection officer.

New section 53CLA – Functions of a water connection officer

New section 53CLA states that the functions of a water connection officer are to:

- help the distributor-retailer to monitor and enforce compliance with chapter 2, part 7 of the Water Supply Act, other than to the extent that part 7 relates to trade waste and seepage water
- monitor and enforce compliance with new chapter 4C, part 5 of the SEQ Water Act (Offences)
- take water connection compliance action.

Insertion of new ch 2C, pts 4 and 5

Clause 12 inserts a new part 4 and part 5 into chapter 2C of the SEQ Water Act.

New Part 4 Powers of water connection officers

New Division 1 General powers for entering places

New section 53DNA – General powers of entry

New section 53DNA provides for a water connection officer’s general powers of entry and the obligations associated with the power to perform the officer’s functions. The general provisions place appropriate limitations on the exercise of entry powers.

A water connection officer may enter a place if it is a place of business which is subject to a water approval and the place is open for carrying on the business or open for entry. In other situations, entry must be undertaken:

- with the consent of the occupier
- if it is a public place, when the place is open to the public
- if the entry is authorised by a warrant.

A place does not include a building or structure used for residential purposes. To remove any doubt, subsection (3) states that this section does not limit or otherwise affect a water connection officer's powers as an authorised person. This is to clarify that a water connection officer also retains the powers of an authorised person under the Water Supply Act.

New Division 2 Other powers of water connection officers

New section 53DNB – Application of ch 2C, pt 2, divs 2 to 8

New section 53DNB applies the provisions of chapter 2C of the SEQ Water Act (Trade waste and seepage water provisions for distributor-retailers), part 2, divisions 2 to 8 to water connection officers to enable the exercise of those powers by water connection officers in carrying out their functions. Division 2 to 8 relate to:

- Division 2 – Entry to take discharge compliance action
- Division 3 – Approved inspection programs
- Division 4 – Obtaining warrants
- Division 5 – Procedure for entries
- Division 6 – Powers after entry
- Division 7 – Personal details requirements
- Division 8 – Safeguards.

Section 53DNB states that the applied provisions apply with any necessary changes, as if a reference to a:

- discharge officer were a reference to a water connection officer
- discharge compliance action were a reference to a water connection compliance action
- discharge offence were a reference to a water connection offence
- trade waste approval or seepage water approval were a reference to a water approval.

For the application of section 53CV(1), the reference to section 53CM(1)(b) is taken to be a reference to section 53DNA(1)(b).

New Part 5 Show cause and water connection compliance notices

New Division 1 Show cause notices

New section 53DNC – When show cause notice must be given before compliance notice

New section 53DNC provides that the distributor-retailer or water connection officer must, before giving a person a compliance notice for a matter, give the person a show cause notice about the matter. The requirement to give a show cause notice before a compliance notice does not apply if the distributor-retailer or water connection officer reasonably believes urgent action is required to protect public health, public safety, to stop damage or further damage to the distributor-retailer's water infrastructure, or if it is otherwise not appropriate in the circumstances to give a show cause notice for the matter. An example where it may not be appropriate to give a show cause notice is where a distributor-retailer or water connection officer considers giving a show cause notice may adversely affect the effectiveness of the proposed compliance notice.

New Division 2 Water connection compliance notices

New section 53DND – Who may give a water connection compliance notice

New section 53DND provides that the distributor-retailer or water connection officer may give a person a notice (water connection compliance notice) requiring the holder to remedy the contravention if a distributor-retailer or water connection officer believes:

- a person is contravening a provision of chapter 4C, part 5 of the SEQ Water Act, or has contravened a provision of chapter 4C, part 5 in circumstances that make it likely the contravention will continue or be repeated;
- a matter relating to the contravention is reasonably capable of being rectified; and
- it is appropriate to give the person an opportunity to rectify the matter.

If a show cause notice has been given, then the compliance notice may be given only if, after considering any properly made submission by the person about the show cause notice, the distributor-retailer or water connection officer still believes it is appropriate to give the compliance notice.

New section 53DNE – Requirements for water connection compliance notice

New section 53DNE states the matters a compliance notice must include. The matters include:

- that the water connection officer or distributor-retailer reasonably believes a person is contravening a provision of chapter 4C, part 5, or has contravened a provision of chapter 4C, part 5 in circumstances that make it likely the contravention will continue or be repeated
- the provision the water connection officer or distributor-retailer believes is being, or has been, contravened
- briefly, how it is believed the provision is being, or has been, contravened
- that the person must remedy the contravention within a stated reasonable period
- that it is an offence to fail to comply with the notice unless the person has a reasonable excuse
- that, within 20 business days after the notice is given, the person may apply for an internal review of the decision to give the notice
- how the person may apply for the review.

Other matters a water connection compliance notice may also state:

- the reasonable steps that the water connection officer or distributor-retailer is satisfied are necessary to remedy the contravention, or avoid further contravention, of the provision
- performance outcomes to show that the contravention has been remedied or the further contravention will be avoided.

If a water connection compliance notice requires the person to do an act involving the carrying out of work, it also must give details of the work involved. If a water connection compliance notice requires the person to refrain from doing an act, it also must state the period for which the requirement applies or that the requirement applies until further notice.

New section 53DNF – Offence to contravene water connection compliance notice

New section 53DNF provides that a person to whom a water connection compliance notice is given must comply with the notice unless the person has a reasonable excuse. If a compliance notice is not complied with the maximum penalty is 100 penalty units.

New section 53DNG – Action distributor-retailer may take if water connection compliance notice contravened

New section 53DNG provides that if a person contravenes a water connection compliance notice by not doing something the distributor-retailer may do the thing or take any other action (water connection compliance action) it reasonably believes is necessary to prevent or minimise the impact of the contravention.

New section 53DNH – Recovery of costs of water connection compliance action

New section 53DNH provides that if a distributor-retailer incurs expenses because of the taking of a water connection compliance action, it may give the person a notice stating the amount of the expense incurred. Any reasonable expenses incurred by the distributor-retailer in taking the water connection compliance action may be recovered by the distributor-retailer from the person as a debt.

Omission of ch 3A, pt 7 (Restrictions on particular charges for 2012–13 financial year)

Clause 13 omits chapter 3A, part 7 of the SEQ Water Act, which provided for restrictions on particular charges for the 2012-13 financial year.

Amendment of s 99BJ (Requirement for SEQ service provider to have plan)

Clause 14 amends section 99BJ to require an SEQ service provider to adopt a water netserv plan before 1 October 2014.

Replacement of s 99BL (Requirement for SEQ service provider to review plan)

Clause 15 replaces section 99BL.

New section 99BL – Requirement for SEQ service provider to review plan

New section 99BL requires an SEQ service provider to review its water netserv plan before the end of each five-year period starting on 1 October 2014 to ensure it is consistent with the SEQ regional plan and the relevant planning assumptions. The review is also to ensure the water netserv plan achieves the purposes of the plan under section 99BM. Additionally, an SEQ service provider must review their connections area in a water netserv plan before 1 October each year and their future connection areas in a water netserv plan on a five-year basis starting on 1 October 2014.

The amendment also provides that if a connection is approved outside the connection area the location of the connection is taken to be part of the connection area and an SEQ service provider is required to update its connection area to include the new connection as soon as practicable under subsection (2).

Amendment of s 99BM (Purposes of plan)

Clause 16 amends the purposes of a water netserv plan to include for an SEQ service provider who is a distributor-retailer to provide a process for approvals for connection, disconnecting or altering a connection to the water infrastructure. The purpose of a plan is also to state fees and charges that may be levied under chapter 4C for connections to the distributor-retailer's water infrastructure including its trunk infrastructure.

Amendment of s 99BO (Content of part A of plan)

Clause 17 amends section 99BO(1)(f) and (g). Amendments to section 99BO(1)(f) now require that an SEQ service provider must have a connections policy for connecting, disconnecting and altering connections to its water infrastructure. The connections policy must include:

- the connection areas in which an SEQ service provider guarantees to provide connection where the connection criteria are complied with
- a future connection area which identifies where the service provider is planning on extending its infrastructure networks
- the circumstances in which the service provider may approve connection outside its connection area
- the service provider's criteria for providing connection, with or without conditions, to its water service or wastewater service
- for an SEQ service provider who is a distributor-retailer each matter stated in section 99BOA.

Section 99BO(1)(g) is amended so that an SEQ service provider's charges schedule includes:

- the insertion of a requirement to include charges under section 99AV(2)(b) and for those service providers who are a distributor-retailer to include charges under section 99BOB (which includes infrastructure charges)
- for SEQ service providers who is not a distributor-retailer, that they must have charges relating to providing infrastructure for the services.

Clause 17 also amends section 99BO to provide that, if the SEQ service provider is a distributor-retailer, then a schedule of works for the provider is to be included in a water netserv plan. Additionally, for all SEQ services provider any other matters prescribed in a regulation must be included in a water netserv plan.

Insertion of new ss 99BOA–99BOB

Clause 18 provides for the insertion of new sections 99BOA to 99BOB.

New section 99BOA – Connections policy for distributor-retailers

New section 99BOA details requirements additional to section 99BO(1)(f) under the SEQ Water Act for a distributor-retailer’s connections policy.

A distributor-retailer’s connections policy must also include:

- Criteria and conditions for a standard connection.
- Criteria for a staged water connection. It is intended that a staged water connection process will be used where an applicant has a large subdivision development that will occur over a number of years and may require an approval for each stage of the development as well as the initial approval to connect the development to the network. For an approval for each stage of the development, there would be detailed engineering design plans and it would detail how infrastructure works are to be carried out. This enables a developer to construct stages of the development when they choose and is more cost-effective for developers.
- Criteria for other categories of connections including connections outside either or both of the connections area or future connections area. For example a distributor-retailer may set criteria for connections that do not meet the criteria for a guaranteed connection but are still within the connections area.
- Details about the way to apply for a water approval.
- Details about which categories of connections will be delegated to a distributor-retailer’s participating local government under section 53 of the SEQ Water Act.
- The time frames for which a distributor-retailer will make a decision for a connection other than for a standard connection.
- Conditions for when a water approval lapses.
- The requirements for construction maintenance and defects liability. This would include the time frames for the liability period and the obligations.

New section 99BOB – Charges schedules for distributor-retailers

New section 99BOB provides for additional charges and information, to those listed under section 99BO(1)(g) of the SEQ Water Act, which a distributor-retailer must include in its schedule of charges. The additional charges and information that a distributor-retailer must list are:

- connection charges
- property service infrastructure charges
- adopted infrastructure charges
- the way that a connection charge, property service infrastructure or an adopted infrastructure charge is calculated
- the fees payable for an application or request under chapter 4C.

Amendment of s 99BQ (Matters SEQ service provider must have regard to in making plan)

Clause 19 amends section 99BQ to insert new examples of documents that an SEQ service provider must have regard to in making a water netserv plan, namely the SEQ regional plan and the SEQ water supply strategy under the SEQ regional plan.

Replacement of ch 4B, pt 4 (Process for making or amending plans)

Clause 20 replaces chapter 4B, part 4 of the SEQ Water Act.

New Part 4 Making and amendment

New section 99BR – Process for making

New section 99BR provides for the process that an SEQ service provider must follow when making a water netserv plan. When making part A of a water netserv plan an SEQ service provider must:

- Give public notice of the proposal to make part A.
- Carry out public consultation in relation to the proposed part A for at least 20 business days, invite submissions during public consultation and consider those submissions.
- For a distributor-retailer, each participating local government must endorse the proposed part A as being consistent with its planning assumptions.
- For a withdrawn council, its council must endorse the proposed part A as being consistent with its planning assumptions.
- Once part A has been endorsed by the participating local governments for a distributor-retailer, or for a withdrawn council by its council, the proposed part A must be sent to the Planning Minister. The Planning Minister must endorse the proposed part A if it is consistent with the SEQ regional plan.
- An SEQ service provider cannot adopt a water netserv plan under section 99BRAB if all the relevant endorsements are not received.

A participating local government or the Planning Minister is taken to have endorsed the proposed part A of the plan if the entity has not, within 30 business days after receiving the plan, refused to endorse the proposed part A or asked the SEQ service provider to change the proposed part A of the plan.

New section 99BRAA – Process for amending plan

New section 99BRAA provides the process for amending part A or B for a water netserv plan. An SEQ service provider can under this section and section 99BRAB amend its water netserv plan. For part A an SEQ service provider can make either an administrative, minor or major amendment to its water netserv plan.

An administrative amendment to part A of a netserv plan or any amendment to part B of the plan may be made at any time. An administrative amendment includes correcting or changing matters such as formatting, cross-references, spelling errors, incorrect factual matters, redundant provisions or a charge under 99BO(1)(g) or 99BOB. These types of amendments will have no impact on the content or information contained within a water netserv plan.

A minor amendment to part A of a water netserv plan is an amendment that occurs because of a change to the SEQ service provider's connection area under section 99BL(3), an amendment of the connections policy other than an amendment to the future connection area, or an amendment of the schedule or works. A minor amendment is made by undertaking public consultation for 10 business days, inviting submissions and considering the submissions.

A major amendment to part A of a water netserv plan is all types of amendments that are not administrative or minor. To make a major amendment the SEQ service provider must undertake the same process under section 99BR as when making a water netserv plan.

When making or amending part B of a water netserv plan an SEQ water service provider can make the part or make changes to the part at any time.

New section 99BRAB – Adoption of plan or amendment

New section 99BRAB provides that a water netserv plan or an amendment of a water netserv plan must be adopted by a distributor-retailer's board or a withdrawn council. The plan or amendment of the plan takes effect on a day stated in a resolution of the board or council. The stated day cannot be before the adoption. If, for a distributor-retailer's plan, the amendment of the plan is an administrative amendment or a minor amendment, the chief executive officer of the distributor-retailer may adopt the amendment.

As soon as practicable after the adoption of the plan, or a major amendment of the plan, the SEQ service provider must give the notice of the adoption to the Planning Minister and the participating local governments if it is a distributor-retailer.

Insertion of new ch 4C

Clause 21 inserts new chapter 4C into the SEQ Water Act.

New Chapter 4C Water approvals and infrastructure

New Part 1 Services advice notices

New section 99BRAC – Obtaining notice

New section 99BRAC provides that a person at any time may request a services advice notice from a distributor-retailer about a connection. The request must be made in the way stated in the distributor-retailer's connections policy. A distributor-retailer may give the person a services advice notice stating advice about the proposed connection having regard to its connections policy and the charges and or conditions that may apply to the connection. A distributor-retailer may include any other relevant matter about the connection in the services advice notice. A distributor-retailer may impose a fee stated in its connections policy for the services advice notice.

New section 99BRAD – Water approval still required

New section 99BRAD provides that, despite a services advice notice being given, if the person wishes to make the connection which is the subject of the services advice notice the person must apply for a water approval. If the person does apply, the services advice notice is not binding on a distributor-retailer's decision.

New Part 2 Water approvals

It is intended that the water approval process under the SEQ Water Act will bring together the water and sewerage components previously from a development application under the Sustainable Planning Act and connection requirements under the Water Supply Act.

The water approval process has been designed to include both flexible and customised measures. Streamlining mechanisms such as standard connections and the use of third-party certification provide an applicant with the flexibility to choose the quickest and most cost-effective solution for connection. An applicant has been given the ability to apply for a staged water connection where there is a large subdivision that may have numerous stages and will occur over many years. The water approval process is customised to accommodate the requirements of these types of connections.

New Division 1 Application and decision process

New section 99BRAE – Operation of pt 2

New section 99BRAE provides for the ability of a person (the applicant) to apply and gain a water approval to connect to a distributor-retailer's water or wastewater networks. Part 2 does not provide for the ability to request a standard connection.

New section 99BRAE – Applying for water approval

New section 99BRAE provides that an applicant may apply to a distributor-retailer for a water approval. An applicant must make an application in the way that is detailed in a distributor-retailer's connections policy, which is contained within its water netserv plan. If an applicant is not the owner of the land related to the connection, the owner's written consent must accompany the application. Examples of land related to the connection include: the land for the connection and the land for which access is required for the connection.

If an application is required to be made in a form that is set out as part of a distributor-retailer's connections policy, then section 48A of the *Acts Interpretation Act 1954* applies to the form as if the form were prescribed or approved under the SEQ Water Act.

The distributor-retailer may impose a fee stated in the connections policy for the application.

New section 99BRAG – Decision generally

New section 99BRAG provides that when deciding an application the distributor-retailer must assess the application and either approve all or part of the application, or refuse the application. The decision may impose conditions (water approval conditions) permitted under division 2 and part 7 on any approval.

The distributor-retailer's assessment of the application must be against the decision criteria in its connections policy of its water netserv plan, the SEQ design and construction code and any other matter the distributor-retailer considers to be relevant to a connection or the supply of its water or wastewater services.

New section 99BRAH – Other decision rules

New section 99BRAH provides that a distributor-retailer may refuse an application if it considers that the connection is not technically feasible.

A distributor-retailer may also refuse an application for connection if the distributor-retailer considers that the connection would unreasonably interfere with the connection or supply of its water service or wastewater service to other customers.

New section 99BRAI – Decision notice

New section 99BRAI provides that a distributor-retailer must give the applicant a notice (a decision notice) of the decision made on the application. The notice must state the following information:

- the decision and the day it was made
- if the application is refused, or part of the application is approved, the reasons for the refusal
- if the application is approved subject to conditions or charges, what those conditions or charges levied for the connection are
- for a staged water connection application:
 - any water approval conditions imposed or charges levied for the connection
 - the stages of the connection
 - which stages of the connection, if any, are authorised under the water approval
 - any water approval conditions imposed, or charges levied, on each stage of the connection
 - which stages of the connection require a further application for a water approval
- the applicant's rights of internal review and appeal.

The decision notice for a water connection approval may be combined with any trade waste approval or seepage water approval given to the applicant. If the distributor-retailer does not give the applicant a decision notice within the period during which the application is required to be decided under the connections policy, the distributor-retailer is taken to have refused the application.

New Division 2 Conditions and charges

New Subdivision 1 Water approval conditions

New section 99BRAJ – Water approval conditions must be relevant and reasonable

New section 99BRAJ provides that water approval conditions must be relevant to the connection and not an unreasonable imposition on the connection or must reasonably be required for, or as a consequence of, the connection.

As long as they meet the relevant and reasonable tests above, the conditions a distributor-retailer may impose include:

- The level of demand for the water service or wastewater service for the connection.
- Protecting or maintaining the safety and efficiency of a distributor-retailer's water or wastewater infrastructure.
- Requiring that property service infrastructure or network infrastructure is designed and constructed. These requirements for property service or network infrastructure can include that the infrastructure be designed and constructed in accordance with the SEQ design and construction code.
- Requiring that the applicant must have documents or infrastructure works relating to the water approved certified by the distributor-retailer or a nominated person.
- Requiring the applicant to enter into a water infrastructure agreement within a period stated in the distributor-retailer's connection policy. However, this condition can only be set if the applicant and distributor-retailer have agreed prior to the conditions being set that a water infrastructure agreement will be entered into.
- Requiring that a nominated person make the connection of the new infrastructure to the distributor-retailer's network.
- Requiring the connection or a part of the connection to be completed within a stated period.
- Requiring the payment of security by the applicant under an agreement under section 99BRAL to support a condition of approval.
- Requiring trunk infrastructure or non-trunk infrastructure.

If a water approval has conditions for non-trunk infrastructure the conditions must comply with 99BRCD. If a water approval has conditions for trunk infrastructure the conditions must comply with sections 99BRCS, 99BRCT, 99BRCV, 99BRCW and 99BRCY. If conditions are imposed for trunk infrastructure or non-trunk infrastructure the conditions are subject to the requirements of chapter 4C, part 7.

Additionally, if the water approval is for all or part of a staged water connection application, and conditions are imposed as part of the approval, those conditions can be imposed on any or all stages of the connection.

New section 99BRAK – Power to amend

New section 99BRAK provides that if the holder of a water approval asks, in the way stated in the distributor-retailer's connection policy, to amend a water approval condition, the distributor-retailer must decide to amend the condition or to refuse to amend the condition.

Division 1 of part 2, other than section 99BRAI, applies with any necessary changes to the decision. The distributor-retailer must give the applicant an amendment notice of the decision. The amendment notice must state: the day the decision was made; whether the request is approved or refused; if the request is refused, the reasons for refusal; and the applicant's rights for review and appeal.

An amendment to the condition takes effect from when the amendment notice is given. Despite the amendment to the condition of a water approval, the water approval continues to have effect and a condition that is amended is a water approval condition.

New section 99BRAL – Water approval condition agreements

New section 99BRAL provides that the holder of a water approval may enter into an agreement with an entity, including a distributor-retailer, to establish the obligations, or secure the performance, of a party to the agreement about a water approval condition for the connection.

The new section also provides that an applicant for a connection, the distributor-retailer and nominated person may enter into an agreement to establish the obligations or secure the performance of a party to the agreement about a proposed condition of the water approval for the connection.

For instance the agreement may be between the applicant and a distributor-retailer concerning how a requirement for third-party certification of documents or infrastructure works or the physical connection to the distributor-retailer's infrastructure would be satisfied. This could include procedural matters concerning how the third-party certification is to occur. This agreement is not limited to staged water connections and is not a water infrastructure agreement.

New section 99BRAM – Water infrastructure agreement terms become water approval conditions

New section 99BRAM provides that if an applicant and a distributor-retailer enter into a water infrastructure agreement and there is a water approval then each term of the agreement is taken to be a condition for the water approval.

New Subdivision 2 Water approval charges

New section 99BRAN – Charges that may be levied

New section 99BRAN provides that a distributor-retailer may levy a charge for any of the following:

- a connection charge for either a property service connection or network connection
- a property service works charge for property service infrastructure.

The relevant charges may be levied on any stage of the connection. The distributor-retailer may recover from a person to whom the charge is levied the amount of the charge, or part of the amount, as a debt.

New Division 3 Effect of water approvals

New section 99BRAO – When approval takes effect

New section 99BRAO provides that a decision notice for a water approval is taken to be a water approval having effect from when the decision notice is given to the applicant.

New section 99BRAP – When approval lapses

New section 99BRAP provides that a water approval has effect until it lapses under a condition of the approval.

New section 99BRAQ – Approval attaches to land

New section 99BRAQ provides that a water approval given by a distributor-retailer, including any conditions that are a part of that approval, attaches to the land to which the approval relates until the water approval lapses. The water approval binds the owner of the land and the owner's successors in title and any occupier of the land. If a later water approval is given for land that already has a prior approval the prior water approval continues to attach to the land but only to the extent that the prior water approval is not modified under the later water approval. Once a water approval has lapsed, the approval and conditions no longer binds the owner or any successors in title.

New section 99BRAR – Notice about conditions, fees and charges

New section 99BRAR provides that a distributor-retailer may give a holder of a water approval a notice stating whether the holder has complied with the conditions of the approval and paid the fees and charges under the approval. This will enable a water approval holder to provide information, certified by a distributor-retailer, concerning whether conditions of an approval have been complied with and fees and charges paid. For instance the water approval holder would then give this information to a local government before applying to have subdivision plans approved for sealing.

New section 99BRAS – Authority to make a connection

New section 99BRAS provides that a water approval authorises the making of a connection to the extent authorised under the approval. However, a distributor-retailer or a person authorised by the distributor-retailer may make a connection or carry out works for the connection without a water approval.

New section 99BRAT – Assessment of connections, water approvals and works

New section 99BRAT provides that a water approval for a connection including works for the connection, or a grant of a standard connection including work for the connection, is a complete assessment of the connection, or works for the connection. A connection including works for the connection cannot be assessed or authorised under a local law or any other law of a State.

New Part 3 Standard connections

New section 99BRAU – Requests for standard connections

New section 99BRAU provides that a person may request a standard connection if the proposed connection is within the connection area and complies with a distributor-retailer's connection criteria identified in the connections policy. If the person who requests the standard connection pays the fee for the request stated in a distributor-retailer's connections policy and the owner has given consent to the connection (if the person making the request is not the owner) then a distributor-retailer cannot refuse the request.

A distributor-retailer must grant the request within five business days of receiving the request, or another period agreed by the distributor-retailer and the person. The distributor-retailer must within five business days after the standard connection was granted provide the person with a notice stating the standard conditions for the standard connection and a fee or charge for the standard connection under this part.

The granting of the request for a standard connection is taken to be a water approval and has effect from when the person receives the notice.

If the distributor-retailer grants a request for a standard connection which includes trunk infrastructure, the distributor-retailer is able to levy a charge for the trunk infrastructure subject to chapter 4C, part 7.

The standard connection is subject to conditions (the standard conditions) stated in the distributor-retailer's connections policy under section 99BOA(a). The distributor-retailer may impose a fee stated in the connections policy for the request under this section.

New section 99BRAV – Charges that may be levied

New 99BRAV provides that a distributor-retailer may for a standard connection levy a charge for a property service connection or a network connection (a connection charge) or property service infrastructure (property service works charge).

A distributor-retailer may recover from a person to whom the charge is levied the amount of the charge, or the part of the amount, as a debt.

New Part 4 Reviews and appeals

Part 4 deals with a range of appealable decisions under the utility model. 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.

Although the utility model establishes a parallel assessment and approval framework outside IDAS, applications for water connections may be associated with development proposals. Using existing appeals bodies with jurisdiction to hear development matters will provide a streamlined process for appeals on these matters.

A person may appeal particular decisions to a Building and Development Dispute Resolution Committee in relation to specified matters or to the Planning and Environment Court. Appeals in relation to appealable decisions may also be combined with an appeal on a related development application.

However, every appeal of an original decision under part 4 must be, in the first instance, by way of an internal review.

New Division 1 Preliminary

New section 99BRAW – Meaning of interested person and original decision

New section 99BRAW provides who is an ‘interested person’ for part 4. An interested person is a person who has:

- been given a decision notice
- not been given a decision notice after the expiration of the decision period under the connection policy
- had one or more of the following charges imposed for a connection, other than for a standard connection:
 - a connection charge
 - a property service works charge
 - a charge under an adopted infrastructure charges notice or a negotiated adopted charges notice.

An ‘original decision’ is a decision or action for which a decision notice is given (an approval decision), a failure to give a decision notice for the application (a failure to decide) or the decision to impose a charge for connection (a charge decision). However, for an original decision an interested person cannot appeal a water approval condition that became a condition under section 99BRAM.

New section 99BRAX – Meaning of standard appeal period

New section 99BRAX provides that a standard appeal period for an appeal under division 3 or division 4, other than for a compliance appeal, means 20 business days after an interested person received a notice of the review decision. If an interested person did not receive a notice of the review decision, the standard appeal period is 20 business days after the decision is taken to have been made under 99BRBC(4).

New Division 2 Internal reviews

New section 99BRAY – Appeal process starts with internal review

New section 99BRAY provides that an appeal of an original decision, other than against a compliance notice, must start with an application for internal review.

New section 99BRAZ – Who may apply for review

New section 99BRAZ provides that an interested person for an original decision may apply for an internal review of the decision (an internal review application). An internal review application may only be made to the chief executive officer of the distributor-retailer who is the ‘reviewer’ of the application.

New section 99BRBA – Requirements for making internal review application

New section 99BRBA provides that an internal review application must be accompanied by a statement of the grounds on which the applicant seeks the review of the decision and must be supported by enough information to enable the reviewer to decide the application. An internal review application must be made within 30 business days after the decision has been made.

New section 99BRBB – Review decision

New section 99BRBB provides that the reviewer must, within the review decision period, review the original decision the subject of the application and decide to confirm the original decision, amend the original decision or substitute another decision for the original decision.

The application must not be dealt with by the person who made the original decision or a person in a less senior office than the person who made the original decision. This applies despite section 27A of the *Acts Interpretation Act 1954*, and necessarily does not apply to an original decision by the chief executive officer (who is the most senior person in the organisation).

If the review decision confirms the original decision, for the purpose of an appeal, the original decision is taken to be the review decision. If the review decision amends the original decision, for the purpose of an appeal the original decision as amended is taken to be the review decision.

For the section, the ‘review decision period’ means 15 business days after receiving an internal review application, or another period agreed between the distributor-retailer and the applicant.

New section 99BRBC – Notice of review decision

New section 99BRBC provides that the reviewer must, within five business days after the review decision period ends, give the applicant notice (a review notice) of the review decision. The review notice must state the reasons for the review decision.

If the review decision is not the decision sought by the applicant, the notice must also state that the applicant has 20 business days after the review notice is given to appeal against the decision to a Building and Development Dispute Resolution Committee or to the Planning and Environment Court.

If the reviewer does not give a review notice within five business days, the reviewer is taken to have made a decision confirming the original decision.

New section 99BRBD – Internal review stops particular actions

New section 99BRBD provides that if an internal review is started under division 2 for an approval decision or charge decision, any work under a water approval must not be started until the review is decided or withdrawn.

Despite this if the reviewer is satisfied the outcome of the review would not be affected if the work is started before the review is decided the reviewer may allow the work to start before the review is decided.

New Division 3 Appeals to a building and development dispute resolution committee

New section 99BRBE – Appeals about applications for connections—general

New section 99BRBE provides for certain matters to be appealed to a Building and Development Dispute Resolution Committee. In relation to an application for a connection, an applicant for appeal may appeal to a Building and Development Dispute Resolution Committee if:

- the land to which the application relates is subject to a development application mentioned in section 519 or 522 of the Sustainable Planning Act
- the applicant applied for an internal review of an approval decision or failure to decide
- the review decision is not the decision sought by the applicant.

Development applications mentioned in section 519 of the Sustainable Planning Act relate to applications for a material change of use that involves a prescribed building. Section 522 relates to applications for a material change of use that involves a class 2 building.

The applicant may appeal to a Building and Development Dispute Resolution Committee on the following aspects of a decision in relation to the connection application:

- a refusal, or an approval in part, of an application
- a water approval condition
- another matter stated in the approval.

The appeal must be started within the standard appeal period.

New section 99BRBF – Appeals about applications for connections—particular charges

New section 99BRBF provides that an applicant for a connection can appeal against a decision if the applicant applied for internal review of a charge decision and the review decision is not the decision sought by the applicant.

The applicant may appeal to a Building and Development Dispute Resolution Committee on certain aspects of the charge only, that is, about an error in the calculation of the charge.

The appeal must be started within the standard appeal period. To remove doubt, section 99BRBF states that an appeal under this section cannot be about the methodology used to establish a charge or the distributor-retailer's charges schedule.

New section 99BRBG – Application of relevant committee appeal provisions

New section 99BRBG applies certain parts of the Sustainable Planning Act relating to the operation of a Building and Development Dispute Resolution Committees, for appeals under division 3, which apply with any necessary changes as if a reference in the provisions to:

- an assessment manager were a reference to the distributor-retailer
- a development application were a reference to the application for the water approval
- a development approval were a reference to a water approval
- an appeal under the Sustainable Planning Act were an appeal under the SEQ Water Act
- a notice under section 535(1)(a) of the Sustainable Planning Act, were a notice under sections 99BRCJ(3) or 99BRCQ of the SEQ Water Act.

Subsection (2) provides a definition of ‘relevant committee appeal provisions’ for the purpose of the section and includes any definitions under the Sustainable Planning Act relevant to the sections mentioned above.

New section 99BRBH – Notice of appeal

New section 99BRBH applies to an appeal under division 3. The registrar of a the Building and Development Dispute Resolution Committees must, within 10 business days after the day the appeal is started, give written notice of an appeal under this division to the distributor-retailer. The notice must state the grounds of the appeal.

New section 99BRBI – Respondent for appeals

New section 99BRBI provides that this section applies to an appeal under division 3. The distributor-retailer is the respondent for the appeal. The respondent for an appeal is entitled to be heard in the appeal as a party to the appeal.

New section 99BRBJ – Who must prove case for appeals

New section 99BRBJ provides that it is for an applicant for an appeal under division 3 to establish that the appeal should be upheld.

New section 99BRBK – Registrar must ask distributor-retailer for material in particular proceedings

New section 99BRBK applies for an appeal under section 99BRBE. If an applicant applied for internal review of a failure to decide, the registrar of the Building and Development Dispute Resolution Committees must ask the distributor-retailer to give the registrar:

- all material, including plans and specification, about the aspect of the application being appealed
- a statement of the reasons the distributor-retailer had not decided the application during the decision-making period or extended the decision making period
- any other information the registrar requires.

The distributor-retailer must give the material mentioned above within 10 business days after the day the registrar asks for the material.

New section 99BRBL – Lodging appeal stops particular actions

New section 99BRBL provides that for an appeal under division 3, for an approval decision or a charge decision, any work under the water approval for the connection must not be started until the appeal is decided or withdrawn.

However, a Building and Development Dispute Resolution Committee may allow the work to start before the appeal is decided, if satisfied the outcome of the appeal would not be affected if the work is started before the appeal is decided.

New section 99BRBM – Appeals may be combined with appeals under the Planning Act

New section 99BRBM provides that an appeal under division 3 and an appeal for a development application mentioned section 99BRBE (i.e. for development mentioned in section 519 or 522 of the Sustainable Planning Act) may be combined and heard together.

New Division 4 Appeals to the Planning and Environment Court

Division 4 provides for appeals to the Planning and Environment Court.

New section 99BRBN – Appeals about applications for connections—general

New section 99BRBN provides for appeals to the Planning and Environment Court on applications for connections.

The applicant may appeal to the Planning and Environment Court if either:

- the applicant applied for internal review of an approval decision or failure to decide
- the review decision is not the decision sought by the applicant.

The applicant may appeal against the review decision to the Planning and Environment court. The appeal must be started within the standard appeal period.

New section 99BRBO – Appeals about applications for connections—particular charges

New section 99BRBO provides for appeals on applications for connections on aspects of particular charges.

Specifically, an applicant may appeal to the Planning and Environment Court if the applicant applied for internal review of a charge decision and the review decision is not the decision sought by the applicant.

The appeal must be started within the standard appeal period.

The applicant may only appeal aspects of the charge that is about:

- whether a charge in the approval is so unreasonable that any reasonable distributor-retailer would not have imposed it
- an error in the calculation of the charge.

To remove doubt, the section states that an appeal under this section cannot be about the methodology used to establish a charge or the distributor-retailer's charges schedule.

New section 99BRBP – Appeals about water connection compliance notices

New section 99BRBP provides for when a person is given a water connection compliance notice.

The applicant may appeal to the Planning and Environment Court against the water connection compliance notice. The appeal must be started within 20 business days after the water connection compliance notice was given.

New section 99BRBQ – Application of relevant court provisions

New section 99BRBQ applies certain parts of the Sustainable Planning Act relating to the operation of the Planning and Environment Court for appeals under division 4, which apply with any necessary changes as if a reference in the provisions to:

- an appellant were a reference to the applicant
- a respondent were a reference to the distributor-retailer
- a development application were a reference to the application for the water approval
- a development approval were a reference to the water approval
- an appeal under the Sustainable Planning Act were an appeal under the SEQ Water Act
- an enforcement notice were a water connection compliance notice.

Subsection (2) provides a definition of 'relevant court appeal provisions' for the purpose of the section and includes any definitions relevant to the provisions.

New section 99BRBR – Notice of appeal to other parties

New section 99BRBR provides that an applicant for an appeal must give written notice of the appeal to the distributor-retailer. The notice must be given within 10 business days after the appeal is started and state the grounds of the appeal.

New section 99BRBS – Stay of operation of water connection compliance notice

New section 99BRBS provides that if the applicant gives a notice of appeal about a water connection compliance notice, the operation of the compliance notice is stayed until the earliest of the following happens: on the application of a distributor-retailer, the Planning and Environment Court decides otherwise; the appeal is withdrawn; or the appeal is dismissed.

However, this does not apply if the compliance notice is about:

- a work, if the water connection compliance notice states the entity believes the work is a danger to persons or a risk to public health
- stopping the demolition of a work
- clearing vegetation on freehold land
- the removal of quarry material allocated under the *Water Act 2000*
- extracting clay, gravel, rock, sand or soil, not mentioned above, from Queensland waters

- works the assessing authority reasonably believes is causing erosion or sedimentation or works the assessing authority reasonably believes is causing an environmental nuisance
- action required to stop damage or further damage to the distributor-retailer's water infrastructure.

New section 99BRBT – Respondent for appeals

New section 99BRBT provides that the distributor-retailer is the respondent to the appeal, and that the respondent for an appeal is entitled to be heard in the appeal as a party to the appeal.

New section 99BRBU – Who must prove case for appeals

New section 99BRBU provides that for an appeal by an applicant under division 4 it is for the applicant to establish that the appeal should be upheld.

New section 99BRBV – Lodging appeal stops particular actions

New section 99BRBV provides that for an appeal under division 4 for an approval decision or charge decision, any work under a water approval must not be started until the appeal is decided or withdrawn.

However, the Planning and Environment Court may allow the work to start before the appeal is decided, if satisfied the outcome of the appeal would not be affected if the work is started before the appeal is decided.

New section 99BRBW – Appeals may be combined with appeals under the Planning Act

New section 99BRBW provides that an appeal under division 4 and an appeal for a development application, which relates to land the subject of the application for a water approval, may be combined and heard together.

New Part 5 Offences

New section 99BRBX – Connections without water approval

New section 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.

New section 99BRBY – Requirement to comply with standard conditions

New section 99BRBY provides that a person must comply with each condition of a standard connection. If they do not comply with each standard condition the maximum penalty is 165 penalty units. This does not apply to a distributor-retailer.

New section 99BRBZ – Requirement to comply with conditions of water approvals

New section 99BRBZ provides a person must comply with each condition of the water approval. If each condition is not complied with the maximum penalty is 1665 penalty units. This does not apply to a distributor-retailer.

New Part 6 Enforcement proceedings

New section 99BRCA – Starting proceeding for enforcement order

New section 99BRCA provides that a distributor-retailer may start a proceeding in a District Court:

- (a) for an enforcement order to remedy or restrain the commission of a water connection offence;
- (b) if the distributor-retailer has started a proceeding under paragraph (a) for an enforcement order and the court has not decided the proceeding—for an order under section 478 of the Water Supply Act as applied by section 99BRCB of the SEQ Water Act;
- (c) for an order that a person, who has committed a water connection offence, pay damages to compensate the applicant for injury suffered by the applicant or loss or damage to the applicant's property because of the commission of the offence.

A person may start a proceeding in a District Court:

- (a) for an order that someone else, who has committed a water connection offence, pay damages to compensate the person for injury suffered by the person or loss or damage to the person's property because of the commission of the offence
- (b) if the person has started a proceeding under paragraph (a) and the court has not decided the proceeding—for an order under section 478 of the Water Supply Act as applied by section 99BRCB of the SEQ Water Act.

If a person other than a distributor-retailer starts a proceeding for an enforcement order, the person must within five business days give the distributor-retailer for the geographic area to which the proceeding related notice of the proceeding.

New section 99BRCB – Application of Water Supply Act enforcement order provisions

New section 99BRCB provides that for a proceeding started under section 99BRCA, the Water Supply Act, sections 476 to 482, other than section 480(2) and 481(1)(d) and 481(2)(d), and any definitions under the Water Supply Act relevant to those section apply as if a reference in the sections to an offence under the Water Supply Act were a reference to an offence under this chapter in the SEQ Water Act with any necessary changes.

New Part 7 Water infrastructure

Water Infrastructure provisions for distributor-retailers including adopted infrastructure charges, water infrastructure agreements, and infrastructure conditions for water approvals are consistent with the approach under the Sustainable Planning Act, with any necessary changes.

Infrastructure charges

The State Planning Regulatory Provision under the Sustainable Planning Act provides for 'adopted infrastructure charges' for trunk infrastructure. The State Planning Regulatory Provision provides for a 'maximum adopted infrastructure charge' for trunk infrastructure under an 'adopted infrastructure charges schedule' (trunk infrastructure includes local government trunk infrastructure, namely, stormwater, community infrastructure and roads as well as distributor-retailer trunk infrastructure for water or wastewater services).

Distributor-retailers may impose an adopted infrastructure charge for water and wastewater infrastructure. However, the maximum amount a distributor-retailer can impose will be determined having regard to the maximum adopted infrastructure charge and apportionment arrangements agreed between the distributor-retailer and their participating local government, or, in the absence of an agreement, as stated in the State Planning Regulatory Provisions.

A distributor-retailer may enter into a written agreement with its participating local government about the proportion of the maximum adopted infrastructure charge that each may impose for trunk infrastructure. The distributor-retailer and the local government are then limited, when imposing an adopted infrastructure charge, to the agreed proportion of the adopted infrastructure charge.

However, if a distributor-retailer and a participating local government have not entered into such an agreement, the proportion of the adopted infrastructure charge that may be imposed by the distributor-retailer and the local government will be set under the State Planning Regulatory Provision. Either a distributor-retailer or a local government may decide (by distributor-retailer board decision or local government resolution) to charge up to or less than their 'relevant proportion' of a maximum adopted charge.

A distributor-retailer may charge an adopted infrastructure charge determined by a distributor-retailer's board and this must not be more than the amount of the distributor-retailer's relevant proportion of the maximum adopted infrastructure charge or otherwise the distributor-retailer's standard amount of the trunk infrastructure. The 'standard amount' means the distributor-retailer's relevant proportion of the participating local government adopted infrastructure charge under section 648A(1)(b) of the Sustainable Planning Act.

New Division 1 Preliminary

New section 99BRCC – Definitions for pt 7

New section 99BRCC inserts new definitions for part 7 for 'adopted infrastructure charge', 'establishment cost', 'increase decision' and 'premises'.

New Division 2 Non-trunk infrastructure

New section 99BRCD – Conditions distributor-retailers may impose about non-trunk infrastructure

New section 99BRCD provides for conditions that a distributor-retailer may impose on a water approval in relation to non-trunk infrastructure, namely: for supplying infrastructure for networks internal to the premises; connecting the premises to external infrastructure networks; or for protecting or maintaining the safety or efficiency of the water infrastructure network. The condition must state the infrastructure to be supplied and when the infrastructure is to be supplied.

New Division 3 Infrastructure charges schedule

New section 99BRCE – Operation of div 3

New section 99BRCE provides that this division applies if the charges schedule of a distributor-retailer includes an adopted infrastructure charge.

New section 99BRCF – Schedule of charges to be adopted

New section 99BRCF provides that the distributor-retailer's board must adopt its infrastructure charges schedule before it is included in the distributor-retailer's water netserv plan and must include the matters decided under section 99BRCI. A charge in the infrastructure charges schedule takes effect on the day the distributor-retailer's board adopts the schedule.

New Division 4 Trunk infrastructure funding and related matters— adopted infrastructure charges

New section 99BRCG – Definitions for div 4

New section 99BRCG inserts new definitions for division 4 for 'adopted infrastructure charges notice' and 'relevant proportion'.

New section 99BRCH – Meaning of adopted infrastructure charge and standard amount etc.

New section 99BRCH provides for the meaning of an 'adopted infrastructure charge' and 'standard amount'. An adopted infrastructure charge for which a State Planning Regulatory Provision (adopted charges) applies is the charge adopted by a distributor-retailer under section 99BRCI; or otherwise the standard amount.

The standard amount for a distributor-retailer is the distributor-retailer's relevant proportion of the participating local government adopted infrastructure charge.

A 'participating local government adopted infrastructure charge' is the adopted infrastructure charge under section 648A(1)(b) of the distributor-retailer's participating local government. The relevant proportion is that which is agreed to under section 648G(2) of the Sustainable Planning Act by a distributor-retailer and its local government or otherwise stated under a State Planning Regulatory Provision (adopted charges).

New section 99BRCI – Distributor-retailer may decide matters about charges

New section 99BRCI provides that a distributor-retailer's board may decide to adopt a charge for supplying trunk infrastructure in relation to its water or wastewater service that is not more than the distributor-retailer's relevant proportion of the maximum amount for an adopted infrastructure charge. This charge may apply to all or part of a distributor-retailer's geographic area. A board may also decide that a charge does not apply in its geographic area or part of its geographic area.

A charge adopted by a distributor-retailer for particular water or wastewater services may be increased after the charge is levied and before it is paid (an increase decision). An increase the subject of an increase decision must not be more than the lesser of:

- (a) the difference between the amount of the charge levied for the services and the maximum amount the distributor-retailer could have charged for the services at the time the charge is paid; or
- (b) an amount representing the increase in the consumer price index for the period starting on the day the charge is levied and ending on the day the charge is paid.

A distributor-retailer's board may decide that, in stated circumstances, a charge for a particular connection is to be discounted to take into account the existing usage of the trunk infrastructure and how such a discount is to be calculated.

In this section for 'maximum adopted charge' see the Sustainable Planning Act schedule 3.

New section 99BRCJ – Funding trunk infrastructure—levying charges

New section 99BRCJ provides that a distributor-retailer may, subject to section 99BRCL, impose a charge for trunk infrastructure for its water or wastewater services.

The amount of the charge levied must be the adopted infrastructure charge. A distributor-retailer may give a person an adopted infrastructure charges notice under section 99BRCM requiring payment of an adopted infrastructure charge. However, notice may only be given in relation to a water approval or a standard connection and within 10 business days after the distributor-retailer gives the applicant the approval decision notice or the standard connection grant notice. A 'standard connection grant', for a standard connection, means the grant of a request for the standard connection given under section 99BRAU.

The charge is not recoverable unless the entitlements under the water approval or standard connection grant are exercised. The adopted infrastructure charges notice lapses if the water approval or standard connection grant stops having effect. The distributor-retailer may recover from the person to whom the charge is levied the amount, or part of the amount, of the charge as a debt.

New section 99BRCK – Levying charge subject to increase decision

New section 99BRCK provides that if, under division 4, the amount of an adopted infrastructure charge levied is the subject of an increase decision, the adopted infrastructure charges notice or new adopted infrastructure charges notice for the charge must state that an additional amount (worked out under section 99BRCI(3)) is payable on the day the charge is paid under part 7.

New section 99BRCL – When charges can not be levied

New section 99BRCL states that an adopted infrastructure charge cannot be levied for a connection related to:

- work or use of land authorised under particular mining, petroleum and gas legislation
- development in a priority development area under the *Economic Development Act 2012*.

New section 99BRCM – Requirements for adopted infrastructure charges notices

New section 99BRCM provides an adopted infrastructure charges notice must state the amount of the charge, the land to which the charge applies, the charge must be paid to the distributor-retailer, when the charge is payable, and if the charge is the subject of an increase decision, an additional amount worked under section 99BRCI(3) is payable on the day the charge is paid.

New section 99BRCN – When charges are payable

New section 99BRCN establishes when adopted infrastructure charges are payable. If for an application for a water approval there is a related configuring of a lot that is assessable development or development requiring compliance assessment, then any adopted infrastructure charge is payable before the local government approves the plan of subdivision for the reconfiguration under the Sustainable Planning Act.

If there is a related material change of use for a water approval, then any adopted infrastructure charge is payable before the change of use happens. If there is related building work that is assessable development or development requiring compliance assessment then the infrastructure charge is payable before the certificate of classification for building work is issued.

Otherwise any adopted infrastructure charge is payable on the day stated in an adopted infrastructure charges notice or negotiated adopted infrastructure charges notice for the application. This section is subject to any relevant water infrastructure agreement.

New section 99BRCO – Distributor-retailer may supply different trunk infrastructure from that identified in a water netserv plan

New section 99BRCO provides that a distributor-retailer may supply different trunk infrastructure from the infrastructure identified in the water netserv plan if the infrastructure supplied delivers the same standard of service.

New Division 5 Provisions for infrastructure charges and charges under a water approval

New Subdivision 1 General

New section 99BRCP – Application of Planning Act, ss 648HA and 648J

New section 99BRCP provides that the Sustainable Planning Act sections 648HA and 648J apply with necessary changes as if a reference in the sections to a local government were a reference to the distributor-retailer, and an increase of an adopted infrastructure charge in compliance with section 648D(9)(b) were an increase decision.

New section 99BRCQ – Application of Planning Act, ch 8, pt 4

New section 99BRCQ applies the Sustainable Planning Act chapter 8, part 4 to distributor-retailers and water connections as it relates to adopted infrastructure charges, with any necessary changes. Chapter 8, part 4 provides a process for applicants who receive an adopted infrastructure charges notice to seek variations of the notice through negotiation with the distributor-retailer.

New section 99BRCR – Application of adopted infrastructure charge

New section 99BRCR provides that an adopted infrastructure charge levied and collected for trunk infrastructure must be used to provide trunk infrastructure.

New Subdivision 2 Necessary trunk infrastructure

New section 99BRCS – Conditions for necessary trunk infrastructure

New section 99BRCS provides for situations where trunk infrastructure required to service premises is not yet available and will also service other premises. This provision allows a distributor-retailer to act as ‘banker’ by requiring the applicant to supply the required trunk infrastructure and refunding the applicant the cost of the infrastructure not attributable to the premises when infrastructure charges are received for subsequent water connections.

Subsection (1) details when conditions for necessary trunk infrastructure can be imposed on a water approval as follows:

- existing trunk infrastructure necessary to service the development is not adequate and adequate trunk infrastructure is identified in a water netserv plan
- trunk infrastructure is necessary to service the premises, but is not yet available
- trunk infrastructure identified in the water netserv plan is located on the premises.

In all cases the planned trunk infrastructure must be identified in a water netserv plan.

Subsection (2) clarifies that a condition under subsection (3) requiring the applicant to construct trunk infrastructure can be imposed even if the item of infrastructure required is different from the item identified in the water netserv plan, provided the item delivers at least the same standard of service.

Example – The water netserv plan may indicate that an area was expected to be serviced by a 375 mm diameter sewer. However, detailed design has revealed the site conditions mean the sewer must be constructed at a flatter grade and consequently a 450 mm diameter sewer is required. Subsection (2) allows the distributor-retailer to require construction of a 450 mm sewer.

Subsection (3) allows a condition to be imposed on a water approval or water infrastructure agreement requiring the applicant to construct trunk infrastructure even if the infrastructure will service other premises.

Subsection (4) requires the condition to state what infrastructure must be constructed and when it must be constructed.

Subsections (5) and (6) establish that, if the infrastructure constructed under a condition of subsection (3) services other premises and its value is more than the value of the charge, the applicant is not required to pay a charge and is entitled to obtain, on agreed terms, a refund from the distributor-retailer for the proportion of the cost of the infrastructure that can be attributed to other users and is collected as an adopted infrastructure charge.

Example – If an applicant was required, under a condition under this section to construct 100 metres of 300 mm diameter trunk water main with a value of \$170,000, and the adopted infrastructure charge was \$95,000, the applicant could enter into an agreement to obtain a refund for \$75,000 (the difference between the value of the infrastructure and the value of the charge) to be collected by the distributor-retailer under adopted infrastructure charges schedule from other connections, as and when they occur, for its proportion or share of the use of the water main.

Subsection (7) applies where the value of the infrastructure is less than the value of the charge and requires that the distributor-retailer offset the value of the infrastructure required to be constructed under the condition against any charge levied for the premises under section 99BRCJ.

Example – Using the previous example, if the value of the trunk water main was \$170,000 and the charge was \$195,000, the applicant would only be required to pay a charge of \$25,000 or the difference between the value of the infrastructure and the total network charge, in addition to constructing the main.

Subsection (8) qualifies the normal ‘reasonable and relevance test’ under section 99BRAJ. A condition for subsection (1)(a) or (b) is relevant and reasonable if the infrastructure is necessary to service the premises and providing the planned trunk infrastructure is the most efficient and cost effective means of servicing the development. Therefore, before imposing a condition under these sections, the distributor-retailer must be satisfied requiring the construction of the infrastructure specified in the condition and identified in the water netserv plan is the most efficient and cost effective means of serving the premises. A condition for subsection (1)(c) is reasonable and relevant to the extent the infrastructure required to be constructed is not an unreasonable imposition on the connection or reasonably required in relation to the connection as a consequence of the connection.

New Subdivision 3 Additional trunk infrastructure costs

New section 99BRCT – Conditions for additional trunk infrastructure costs

New section 99BRCT establishes the parameters for distributor-retailers imposing conditions on a water approval for additional trunk infrastructure costs.

Subsection (1) establishes, subject to section 99BRCV and 99BRCW, a distributor-retailer's right to impose a condition on a water approval for the payment of additional trunk infrastructure costs in the specified circumstances. Subsection (1)(a) refers to a connection being inconsistent with the assumptions about the type, scale, location or timing of future development in a water netserv plan. Further, if the connection for premises is completely or partly outside the connection area and the future connection area in a water netserv plan, it triggers assessment under this division. This is because detailed infrastructure planning may not have been undertaken for the premises as it is at least partly outside the connection area and the future connection area and, therefore, outside the area for which trunk infrastructure planning must be carried out as part of a water netserv plan process.

The ability of a distributor-retailer to impose a condition requiring an applicant to pay the additional costs of supplying trunk infrastructure is dependent on the distributor-retailer's ability to demonstrate, in accordance with subsection (1)(b), that there will be additional costs in supplying the infrastructure, taking into account income from adopted infrastructure charges imposed for the connection and any infrastructure supplied or to be supplied by the applicant for the connection.

Subsection (2) details the matters an additional cost impact condition must state. These include why the condition is required and the details of the trunk infrastructure for which the payment is required. Subsection (2)(f) gives the applicant the option of supplying all or part of the infrastructure instead of making a payment. Subsection (2)(g) requires that any further requirements (for the works to establish the infrastructure) be identified.

Subsection (3) provides for the time of payment. Unless the applicant and the distributor-retailer agree otherwise, the time of payment is:

- if the trunk infrastructure is necessary to service the premises – by the day the connection or works associated with the connection starts; or
- if the trunk infrastructure is not necessary to service the premises:
 - for a connection associated with reconfiguring a lot – before the local government approves the plan of subdivision for the reconfiguration; or
 - for other connections – before the connection is made.

New section 99BRCU – Repayment provision for additional costs

New section 99BRCU clarifies when an additional cost payment must be repaid. For an additional cost payment to be repaid: the water approval in respect of which the payment was required must no longer have effect; the additional cost payment must have been made; and the construction of the infrastructure for which the payment was made must not have been substantially commenced. If these requirements are met then subsection (2) requires the distributor-retailer to repay any part of the payment not spent or contracted to spend on the design and construction of the trunk infrastructure.

New section 99BRCV – Costs for connection areas and future connection areas

New section 99BRCV deals with additional cost conditions under clause 99BRCT within a connection and future connection area in a water netserv plan. If the additional costs are the result of the distributor-retailer having to supply trunk infrastructure to service the connection earlier than anticipated in the water netserv plan, subsection (1)(a) allows the distributor-retailer to require the applicant to pay the difference between the establishment cost of the infrastructure and any charge paid for the infrastructure by the applicant for that item.

Example – The water netserv plan indicates water and sewer mains would be extended to a new emerging area in year 10 of the plan period. If the connection occurs in this area in year two (instead of year 10 as assumed), the trunk water and sewerage infrastructure must be provided earlier than anticipated in the plan. If the establishment cost of this trunk infrastructure is \$100,000, the infrastructure charges levied on the applicant for trunk water and sewerage amount to \$62,000 overall, and \$10,000 of this represents the applicant's share of the mains mentioned. Because the mains are needed to service the connection, they must be provided earlier than anticipated. Subsection (1)(a) provides for the distributor-retailer to impose a condition requiring the applicant to pay, in addition to their infrastructure charge (i.e. the \$62,000), the difference between the establishment cost of the infrastructure that is being supplied earlier than anticipated and the amount of any charge paid for this infrastructure (i.e. \$100,000 - \$10,000). This would result in an additional cost of \$90,000 in this instance. It also means the applicant effectively pays the full cost of the infrastructure that needs to be supplied earlier than anticipated.

However, under subsection (2), the applicant is entitled to obtain, on agreed terms, a refund from the distributor-retailer for the proportion of the cost of the infrastructure that can be attributed to other users and is collected under an infrastructure charges schedule.

If the additional costs are the result of a connection for a different type, scale or intensity of a connection from that anticipated in a water netserv plan, subsection (1)(b)(i) establishes parameters for additional costs to be determined. In these circumstances the applicant must pay for any additional infrastructure made necessary by the connection. These costs would be additional to the adopted infrastructure charges levied.

If the additional costs are the result of a lesser scale or lesser intensity of connection subsection (1)(b)(ii) establishes parameters for the distributor-retailer to require the applicant to pay the difference between the establishment cost of the infrastructure identified in the plan and the establishment cost of the infrastructure necessary for the connection (the difference between the planned infrastructure and the infrastructure actually required by the development). These costs would be additional to the adopted infrastructure charges levied.

Subsection (2)(b) requires a distributor-retailer to take into account charges when determining if a proposal will result in additional costs.

For agreements under subsection (2) it is expected the distributor-retailer would continue to impose charges for the area and refund these to the applicant according to the terms of the agreement. In this way the applicant is responsible for bearing the cost of supplying the infrastructure ahead of time or to a different standard and effectively becomes the 'banker' for the infrastructure, but is also able to use the agreement mechanism to ensure that over time they only end up paying for their share of the infrastructure.

New section 99BRCW – Costs outside connection areas and future connection areas

New section 99BRCW deals with additional costs a distributor-retailer can recover under section 99BRCT, for infrastructure servicing the connection, if the proposed connection is completely or partly outside the connection area and future connection area.

Subsection (1)(a) allows the distributor-retailer to recover the costs of providing trunk infrastructure made necessary by the connection. Subsection (1)(b) relates to temporary infrastructure made necessary by the connection and includes under subsection (1)(b)(i) any infrastructure necessary to ensure the safe and efficient operation of the trunk infrastructure while subsection (1)(b)(ii) deals with any temporary infrastructure made necessary by the connection and provided instead of the 'ultimate' infrastructure provided under subsection (1)(a).

Examples – Temporary infrastructure for subsection (1)(b)(i) may include items such as oxygen injection system for an under-utilised sewer, or a re-chlorination system for an under-utilised water main. Temporary infrastructure under subsection (1)(b)(ii) might include a 150 mm diameter water and sewer mains instead of the 450 mm diameter mains ultimately required.

Subsection (1)(c) allows the distributor-retailer to also recover the decommissioning, removal and rehabilitation costs of the temporary infrastructure. Subsection (1)(d) allows the recovery of maintenance and operating costs, for a period of up to five years, for the trunk or temporary infrastructure.

Example – Maintenance costs might include the periodic cleaning of a sewer. Operating costs may include the cost of electricity to operate a sewerage pump station made necessary by the connection.

Subsection (2) provides that trunk infrastructure made necessary under subsection (1)(a) includes the infrastructure necessary to service the balance of the future connection area.

Example – Provision of a temporary 100 mm diameter water main until the larger 300 mm diameter water main required to service the catchment is provided, together with a contribution for the share of the cost of a 300 mm diameter main reasonably attributable to the connection.

Outside the connection area and the future connection area provision is also made for maintenance and operating costs of the necessary infrastructure and the establishment, operating and maintenance costs of temporary infrastructure. This is to minimise the costs to distributor-retailers for connections occurring in areas that have not necessarily been planned for in terms of the supply of infrastructure. The five-year maintenance and operating period is a sufficient time for a distributor-retailer to update its infrastructure planning and introduce amended and updated future connection area under a water netserv plan that takes account of connections approved outside the future connection area. Where temporary infrastructure is required the distributor-retailer is also able to recover the cost of decommissioning and removing the infrastructure, and rehabilitating the site. These provisions effectively mean applicants for connections outside the future connection area are responsible for paying the full cost of infrastructure made necessary by the connection. This includes paying for infrastructure necessary to service the balance of the future connection area.

As noted above, these provisions, among others, create pricing signals that are designed to promote connections in areas where infrastructure is available or planned. Ad hoc urban growth that occurs without regard for the planning and supply of essential supporting trunk infrastructure imposes significant costs on the community and, over time, constrains a distributor-retailer's ability to provide residents and businesses with necessary services at the desired standards for those services. These provisions do not prevent connections occurring outside future connection areas or in ways not contemplated in a water netserv plan, as these must still be assessed on their merits. Rather these provisions are about ensuring the applicant, not the community as a whole, meets additional infrastructure costs of unplanned connections. An applicant is not entitled to a refund from the distributor-retailer in these circumstances but such a refund arrangement could still be entered into if both parties agree through a water infrastructure agreement.

New Subdivision 4 Miscellaneous provisions

New section 99BRCX – When conditions are relevant and reasonable

New section 99BRCX provides that a condition imposed under this division is taken to comply with section 99BRAJ, to the extent the trunk infrastructure is necessary, but not yet available, to service the connection, even if the trunk infrastructure is also intended to service another connection.

New section 99BRCY – No conditions on State infrastructure suppliers

New section 99BRCY provides that a distributor-retailer cannot impose a condition under this division for a supplier of State infrastructure.

New section 99BRCZ – Declaratory provisions

New section 99BRCZ is a declaratory provision which provides that nothing in this division stops a distributor-retailer from levying a charge for the adopted infrastructure charge of the trunk infrastructure network included in an infrastructure charges schedule or imposing a condition for non-trunk infrastructure or imposing a condition for necessary trunk infrastructure.

New Division 6 Water infrastructure agreements

New section 99BRDA – Agreements about, and alternatives to, paying adopted infrastructure charge

New section 99BRDA provides for a distributor-retailer to enter into certain water infrastructure agreements. The distributor-retailer may enter into an agreement varying conditions under an adopted infrastructure charges notice or a negotiated adopted infrastructure charges notice with the person who has been given the notice. In these circumstances, the agreement may provide for: payment of the charge at a different time or by instalments; supplying infrastructure or providing land in fee simple in place of paying all or part of the charge; or supplying alternative infrastructure to that in the notice but which delivers the same level of service. If an increase decision has been made for the notice, the agreement must state how the amount of the increase is payable.

If obligations under the agreement would be affected by a change in the ownership of the land the subject of the agreement, the agreement must include a statement about how the obligations must be fulfilled if there is a change of ownership.

For development infrastructure that is land, the distributor-retailer may give an applicant for a water connection a notice that is instead of, or in addition to, an earlier notice. This new notice may require the person to give the distributor-retailer land in fee simple where this land is part of the land the subject of a connection. If land is given the total value of the land and residual monetary payment, if any, must not be more than the amount for the rest of the charge. However, the residual monetary payment may be increased under an increase decision. The person given such a notice must comply as soon as possible.

An agreement under this section, as amended from time to time is a water infrastructure agreement.

New section 99BRDB – When water infrastructure agreements bind successors in title

New section 99BRDB provides that if the owner of land to which a water infrastructure agreement applies is a party to the agreement or consents to the water connection obligations being attached to the land, the obligations attach to the land and bind the owner and the owner's successors in title of the land. If the owner's consent is given but is not endorsed on the agreement, the owner must give a copy of the document evidencing the owner's consent to the distributor-retailer for the land to which the consent applies.

However, if the agreement states that part of the land is to be released from the water connection obligation if the land is subdivided, and the land is subdivided, then, the part of the land is released from the obligations and the obligations are no longer binding on the owner of the part of the land.

New section 99BRDC – Water infrastructure agreements prevail if inconsistent with particular instruments

New section 99BRDC provides that to the extent a water infrastructure agreement is inconsistent with a water approval, the agreement prevails. Also to the extent a water infrastructure agreement is inconsistent with an adopted infrastructure charges notice or negotiated adopted infrastructure charges notice, the agreement prevails.

New Part 8 Miscellaneous provisions

New section 99BRDD – SEQ service provider’s guarantees to provide connection

New section 99BRDD provides that an SEQ service provider who has adopted a water netserv plan must connect a premise to its water or wastewater infrastructure if the connection complies with its connection criteria for a connection area. If the connection criteria are not met, additional conditions or charges may be included in the approval. Not meeting the connection criteria is not grounds for the SEQ service provider to refuse the connection.

The above connection guarantee is only provided for in a connections area. Where an application is within a future connection area an SEQ service provide does not guarantee connection.

New section 99BRDE – Ch 4C does not limit Water Supply Act

New section 99BRDE provides that chapter 4C is not intended to limit a power or function of a distributor-retailer under the Water Supply Act.

Amendment of s 99BT (Keeping particular documents available for inspection and purchase)

Clause 22 amends section 99BT(1)(d) to insert a requirement to keep infrastructure agreements and water approvals available for inspection and purchase.

Insertion of new s 100G

Clause 23 inserts a new section 100G.

New section 100G – Documents and information about water approvals and development approvals

New section 100G provides that a local government must provide information or documentation at no cost and as soon as reasonably practical to a distributor-retailer who asks for information or documentation that is relevant to a water approval or application for a water approval. Additionally, if a local government asks for information or documentation relevant to a development approval or development application the distributor-retailer must provide the information or documentation as soon as reasonably practical, at no cost.

Amendment of s 102 (Regulation-making power)

Clause 24 amends section 102 to allow a regulation to be made for any additional matters for water approvals.

Insertion of new ch 6, pt 9

Clause 25 provides for the insertion of a new chapter 6, part 9.

New Part 9 Transitional provisions for Water Supply Services Legislation Amendment Act 2014

New Division 1 Preliminary

New section 131 – Definitions for pt 9

New section 131 inserts definitions for ‘amending Act’, ‘commencement’ and ‘former approval’ for the purpose of the transitional provisions in the SEQ Water Act.

New Division 2 Provisions about delegations

New section 132 – Delegations for concurrence agency functions

New section 132 provides that if before the commencement a development application (an existing application) mentioned in the Sustainable Planning Act, section 961, 962 or 963 was made, a delegation under former section (53)(5)(a)(i), (5)(d) and (6) to (11) continues to apply to the existing application and the matter mentioned in the Sustainable Planning Act, section 961(3), 962(3) and 963(3), as if the amending Act had not been enacted.

It is intended that for the specified matters the mandatory delegation of a distributor-retailer’s concurrence agency role for water and sewerage aspects of a development approval is continued as well as the optional delegation for approving connections to, disconnections from or changes to connections to a distributor-retailer’s infrastructure.

The matters specified in section 961 of the Sustainable Planning Act include a development application made before the commencement, the development approval whether taking effect either before or after the commencement and all subsequent matters for the approval. This will include development approvals that existed before the commencement (as a development application was made before the commencement) and all further actions for such an approval.

The matters specified in section 962 of the Sustainable Planning Act are where there is a related application for an approval the subject of an application in section 961. For instance where there is a related material change of use application or an application for operational works.

The matters specified in section 963 of the Sustainable Planning Act are staged development applications made but not decided before the commencement.

New section 133 – Delegations related to functions under the Planning Act, ch 9, pt 7A, div 4 continue

New section 133 provides that if a compliance assessment (an existing assessment) mentioned in the Sustainable Planning Act section 965 was or is required, a delegation under former section (53)(5)(a)(ii), (5)(d) and (6) to (11) continues to apply as if the amending Act had not been enacted.

This is intended to continue the mandatory delegation for compliance assessment under the Sustainable Planning Act chapter 9, part 7A, division 4, for the specified matters. Namely if before the commencement there was a compliance assessment which had not been completed or a compliance assessment for matters in section 961 or 962 of the Sustainable Planning Act.

New section 134 - Delegations related to functions under the Planning Act, ch 9, pt 7A, div 5 continue

New section 134 provides if before the commencement a development application (an existing application) mentioned in the Sustainable Planning Act, section 961 or 962 was made, then a delegation under former section 53(5)(c) and (6) to (11) continues to apply to the existing application and the matters mentioned in the Sustainable Planning Act, section 961(3) and 962(3), as if the amending act had not been enacted. A delegation under former section 53(5)(c) and (6) to (11) continues to apply to the existing application as if the amending Act had not been enacted.

This is intended to continue the optional delegation for infrastructure matters under chapter 9, part 7A, division 5 of the Sustainable Planning Act, for the specified matters.

New Division 3 Provisions about staged development approvals

New section 135 – Water connection aspect of development approvals under the Planning Act

New section 135 applies if:

- before the commencement, a staged development approval had been granted under the Sustainable Planning Act (a development approval for reconfiguring a lot); and
- an aspect (the water connection aspect) of the staged development approval is related to infrastructure of a distributor-retailer in relation to its water service or wastewater service; and
- for the same land, or part of the same land, to which the staged development approval related a later development application for either of the following would have been made for the water connection aspect under the Sustainable Planning Act, if the amending Act had not commenced:
 - a reconfiguration of a lot; or
 - operation works.

Section 135 also applies if a development approval takes effect under the Sustainable Planning Act section 963. This is where a staged development application was made before the commencement and the unamend Sustainable Planning Act continued to apply until a development approval for the staged development application takes effect. The water connection aspect of the staged development approval is then dealt with under section 135.

The water connection aspect is taken to be a water approval for a staged water connection. All conditions of the staged development approval in relation to the water connection aspect are taken to be conditions of the water approval. For section 99BRCJ, a reference to a decision notice in that section is taken to be a reference to the decision notice for the development approval under the Sustainable Planning Act.

It is intended that if there is an existing development approval for a subdivision (a reconfiguration of a lot) that would have had another reconfiguration of a lot or operational works development application, that the water connection aspect of the development approval will transition and become a staged water connection approval. Namely any conditions relating to water and sewerage for the existing development approval will transition to a staged water approval. This will ensure that where there are large staged developments occurring over a number of years that they are transitioned across to the SEQ Water Act.

When an applicant is ready to develop the next stage of the subdivision then the applicant will return to the distributor-retailer with detailed information for the water and sewerage components of the next stage. The applicant will not have to submit a later development application or request for compliance assessment for these water and sewerage matters under the Sustainable Planning Act. Rather subsequent applications will be dealt with as a staged water approval under the SEQ Water Act.

New section 136 – Distributor-retailer can not give a notice under s 99BRCJ

New section 136 provides that if, before the commencement, an adopted infrastructure charges notice is given under the Sustainable Planning Act for a development approval mentioned in section 135, a distributor-retailer cannot levy a charge under section 99BRCJ for the infrastructure which is already the subject of the adopted infrastructure charge notice. However a distributor-retailer may levy a charge under section 99BRCJ for the supply of additional or related infrastructure if a subsequent water approval takes effect.

New Division 4 Miscellaneous

New section 137 – SEQ service providers to adopt interim connections policy

New section 137 provides that an SEQ service provider must adopt the connections policy component of a water netserv plan by 1 July 2014 as an interim connections policy. To adopt the interim connections policy an SEQ service provide must undertake all steps except those that refer to the Planning Ministers endorsement under the section 99BR for the process for making a plan and the majority of steps in section 99BRAB for adoption of plan. An interim connections policy will cease to have effect when the SEQ service provider's water netserv plan takes effect under section 99BRAB(3).

New section 138 – Documents and information about water approvals and development approvals under former s 53

New section 138 provides that a local government must as soon as reasonably practicable give information or documents held under the former section 53 if a distributor-retailer asks for the information or documents.

New section 139 – Overdue charges

New section 139 provides that if on the commencement a distributor-retailer is owed an amount for all or any of the following:

- a charge under the Sustainable Planning Act, former section 755K or 755KB
- a charge under an agreement under the Sustainable Planning Act, former section 755L, 755M or 755MA.

From the commencement, the amount is taken to be an overdue charge for chapter 2A, part 3. However, a charge under this section is not recoverable unless the entitlements for the approval or permit under the Sustainable Planning Act are exercised.

New section 140 – Schedule of works for distributor-retailers before 1 October 2014

New section 140 provides that a distributor-retailer's board must adopt a schedule or works by 1 July 2014. The schedule of works must be made available for public inspection and ceases to have effect once the schedule is incorporated in the distributor-retailer's water netserv plan and the plan is in effect.

A reference to a water netserv plan in any of the following provisions—section 99BRCO; 99BRCS; 99BRCT; 99BRCV; 99BRDA; or the schedule, definition of trunk infrastructure—is taken to be a reference to the schedule of works adopted by the distributor-retailer's board. The above applies for a distributor-retail until the earlier of the following happens:

- the distributor-retailer adopts a water netserv plan; or
- 1 October 2014.

Amendment of schedule (Dictionary)

Clause 26 subsection 1 removes redundant definitions.

Subsection 2 amends schedule 3 to insert the following new definitions:

adopted infrastructure charge, for chapter 4C, part 7, see section 99BRCH.

adopted infrastructure charges notice, for chapter 4C, part 7, division 4 see section 99BRCG.

alteration, for a connection, includes any material change in infrastructure or increase in demand for a water service or sewerage service at the connection. It is intended that a person must apply to the distributor-retailer for an altered connection should there be need for a material change in infrastructure or an increase in demand. An application for an altered connection is subject to the same approval and conditioning rules as an application for a new connection.

An example of an altered connection is where a food processing cannery expands to double its capacity. This expansion will increase the demand for water and increase wastewater discharge. The cannery would be required to apply to the distributor-retailer for an alteration to their current connection and to their current allotted demand.

compliance assessment, see the Sustainable Planning Act schedule 3.

connection, means a property service connection or network connection.

connection charge, generally see section 99BRAN(1)(a) or for a standard connection, see section 99BRAV(1)(a).

consent arrangement, for chapter 2B, part 2, see section 53BI(1)(b).

CPI, means—

- (a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or
- (b) if the index ceases to be published, another similar index prescribed under a regulation.

decision notice see section 99BRAI(1).

development infrastructure, see the Sustainable Planning Act, schedule 3.

establishment cost, for chapter 4C, part 7, see section 99BRCC.

future connection area, see section 99BO(1)(f)(ii).

increase decision, for chapter 4C, part 7, see section 99BRCC.

infrastructure charges schedule, for chapter 4C, part 7, see section 99BRCE.

interested person, for chapter 4C, part 4, see section 99BRAW(1).

internal review application, for chapter 4C, part 4, see section 99BRAZ.

network connection is the connection, disconnection or an altered connection of network infrastructure to a distributor-retailer's water or sewerage infrastructure. The connection is to supply a water or wastewater service. The disconnection is to stop the supply of a water or wastewater service. A network connection may also be works for a connection, disconnection or altered connection of network infrastructure to extend or upgrade a distributor-retailer's water or sewerage infrastructure.

An example of a network connection is the connection of a new subdivision estate. As part of the approval the applicant would have been conditioned to build all necessary water and sewerage infrastructure internal to the development. In addition, the applicant would be conditioned to build water and sewerage infrastructure that would connect the internal infrastructure to the existing network. The connecting of the new infrastructure to the existing infrastructure is the physical network connection.

network infrastructure means:

- generally—water infrastructure, other than property service infrastructure
- for chapter 4C, part 2—trunk infrastructure or non-trunk infrastructure.

nominated person of a distributor-retailer means a person who is endorsed by its chief executive officer.

non-trunk infrastructure, for a distributor-retailer, means water infrastructure, other than the trunk infrastructure of the distributor-retailer.

original decision, for chapter 4C, part 4, see section 99BRAW(2).

owner, for chapter 4C, of land, means any of the following:

- the registered proprietor of the land under the *Land Title Act 1994*
- the lessee or licensee under the *Land Title Act 1994* of the land
- the holder of a mineral development licence or mining lease over the land under the *Mineral Resources Act 1989*
- the holder of a petroleum lease over the land under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.
- the entity who, for the time being, has lawful control of the land, on trust or otherwise
- the person who is entitled to receive the rents and profits of the land.

premises means:

- for chapter 4, part 7—see section 99BRCC; or
- otherwise:
 - a lot as defined under the Sustainable Planning Act section 10(1); or
 - for a lot under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*—the common property for the lot.

property service connection, is the connection, disconnection or an altered connection of property service infrastructure to the distributor-retailer's existing network for the supply of water or wastewater services. The connection is to supply a water or wastewater service. The disconnection is to stop the supply of a water or wastewater service.

An example of a property service connection, is the connection of a premises (which could be a house, business, block of units etc.) existing plumbing and drainage to the distributor-retailer's existing network infrastructure. To achieve this connection property service infrastructure may need to be constructed due to the distance between the premises and the existing network infrastructure.

property service infrastructure, has the same meaning of a property service in the Water Supply Act, it is the pipes and fitting installed for connecting to a service provider's infrastructure. For a sewerage service it is a junction, bend, pipe, jump up or graded jump up required to connect a sanitary drain or property sewer to a service provider's infrastructure.

property service works charge, generally see section 99BRAN(1)(b), and for a standard connection see section 99BRAV(1)(b).

relevant proportion, for chapter 4C, part 7, see section 99BRCG.

review decision, for chapter 4C, part 4, see section 99BRBB(1).

reviewer, for chapter 4C, part 4, see section 99BRAZ(2).

schedule of works, for a distributor-retailer, means a schedule which includes the following information:

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

services advice notice, see section 99BRAC(1).

show cause notice, means a notice that complies with the Water Supply Act, section 463.

staged water connection, is a connection that complies with a distributor-retailer's criteria under section 99BOA(b). It is intended that a staged water connection process will be used where an applicant has a large subdivision development that will occur over a number of years and may require an approval for each stage of the development as well as the initial approval to connect the development to the network. For an approval for each stage of the development, there would be detailed engineering design plans and it would detail how infrastructure works are to be carried out. This enables a developer to construct stages of the development when they choose, and is more cost-effective for developers.

staged water connection application, means an application for a stage water connection.

standard appeal period, for chapter 4C, part 4, see section 99BRAX.

standard conditions, for chapter 4C, see section 99BRAU(7).

standard connection, for chapter 4C, see section 99BRAU(1).

trunk infrastructure, for a distributor-retailer means water infrastructure of the distributor-retailer that is:

- development infrastructure; and
- identified in the distributor-retailer's water netserv plan as trunk infrastructure.

water approval means a decision notice that approves, all or part of an application for a connection under chapter 4C, part 2 with or without approval conditions or water approval charges.

water approval conditions, for chapter 4C, see section 99BRAG(2).

water connection compliance action, for chapter 2C, see section 53DNG(2).

water connection compliance notice, see section 53DND(2).

water connection offence, means an offence under chapter 2, part 7 of the Water Supply Act other than to the extent that part relates to trade waste or seepage water. Namely if a person:

- supplies unauthorised services
- connects or disconnects from a service provider's infrastructure without approval
- interferes with a service provider's infrastructure
- discharges particular substances
- pollutes water in a service provider's water service
- takes water without approval.

It is also an offence if under chapter 4C, part 5 of the SEQ Water Act if there is:

- a connection without a water approval
- non-compliance with standard conditions
- non-compliance with a condition of a water approval.

water connection officer, for chapter 2C, means a person who holds appointment as a water connection officer under section 53CK.

water infrastructure agreement, see section 99BRDA(8).

Subsection 3 amends the definition of distributor-retailer paragraphs (c) and (d) and inserts new paragraphs (e) to (g).

Subsection 4 amends the definition of **planning assumptions**, paragraph (a) to include that if a distributor-retailer, a participating local government and the Planning Minister agree that different assumptions about a planning descriptor are appropriate for preparing or reviewing a water netserv plan—the agreed assumptions.

Part 2 Amendment of Sustainable Planning Act 2009

Act amended

Clause 27 provides that this part amends the *Sustainable Planning Act 2009*.

Insertion of new s 347A

Clause 28 inserts new section 347A.

New section 347A – Conditions about water infrastructure

New section 347A provides that an assessment manager or concurrence agency who is also a participating local government of a distributor-retailer cannot impose a condition in relation to the distributor-retailer's water infrastructure about a matter that requires a water approval under the SEQ Water Act. Examples of matters that an assessment manager or concurrence agency cannot impose conditions for include:

- works to be carried out
- a monetary payment
- land in fee simple to be given
- that an infrastructure agreement be entered into.

However, a condition may be imposed that any necessary water approval under the SEQ Water Act must be obtained from a distributor-retailer.

This section would not apply to an approval by a local government of a distributor-retailer's infrastructure such as sewage treatment plants.

Insertion of new s 406A

Clause 29 inserts new section 406A.

New section 406A – Conditions about water infrastructure

New section 406A provides that if the compliance assessor is a participating local government, or is a nominated entity of a participating local government for a distributor-retailer, conditions cannot be imposed in relation to the distributor-retailer's water infrastructure about a matter that requires a water approval under the SEQ Water Act. Matters that a compliance assessor cannot impose conditions about include the following matters for the infrastructure:

- works to be carried out
- a monetary payment
- land in fee simple to be given
- that an infrastructure agreement be entered into.

However, a condition may be imposed that any necessary water approval under the SEQ Water Act must be obtained from a distributor-retailer.

This section would not apply to an approval by a local government of a distributor-retailer's infrastructure such as sewage treatment plants.

Omission of ch 9, pt 7A (Provisions for distributor-retailers)

Clause 30 omits chapter 9, part 7A to remove provisions for distributor-retailers for the interim delegated assessment model. This part will no longer be required as it is being replaced by the water connection approval in the SEQ Water Act, chapter 4C.

Insertion of new ch 10, pt 9

Clause 31 provides for the insertion of chapter 10, part 9 transitional provisions for the *Water Supply Services Legislation Amendment Act 2014*.

New Part 9 Transitional provisions for Water Supply Services Legislation Amendment Act 2014

New section 960 – Definitions for pt 9

New section 960 inserts definitions for 'amending Act', 'commencement', and 'unamended Act' for the purpose of the transitional provisions for the Sustainable Planning Act.

New section 961 – Distributor-retailer continues as concurrence agency for existing applications

New section 961 provides that where a development application under the unamended Act had been made before the commencement other than an application mentioned in 963 (an existing application) and the application is for a matter for which the distributor-retailer had a concurrence role, then the distributor-retailer continues to be the concurrence agency for the water and sewerage matters of the application. The unamended Act continues to apply to the following as if the amending Act had not been enacted—

- the existing application
- a development approval for the existing application
- all subsequent matter related to the distributor-retailer’s concurrence agency functions for the approval.

The matters specified in section 961 include a development application made before the commencement, the development approval whether taking effect either before or after the commencement and all subsequent matters for the approval. This will include development approvals that existed before the commencement (as a development application was made before the commencement) and all further actions for such an approval.

It is intended that new section 961 under the Sustainable Planning Act is read in conjunction with the new section 132 of the SEQ Water Act, which provides that if a development application is made before the commencement then the mandatory delegation of the distributor-retailer’s concurrence power to the relevant participating local government and the optional delegation for approving connections to, disconnections from, or changes to connections to a distributor-retailer’s infrastructure (former section 53(5)(a)(i) and (5)(d)) continues.

New section 962 – Distributor-retailers continue as concurrence agency for related applications

New section 962 applies if, for an approval (an original approval) for an application mentioned in section 961, another application (a related application) for a development approval related to the original approval is made and an aspect of the related application is for a matter for which a distributor-retailer had a concurrence role.

For dealing with and deciding the related application the distributor-retailer is taken to be the concurrence agency for the concurrence aspect. The unamended Act continues to apply to the following as if the amending Act has not been enacted—

- the related application
- a development approval for the application
- all subsequent matter related to the distributor-retailer’s concurrence agency functions for the approval.

It is intended that new section 962 under the Sustainable Planning Act is read in conjunction with the new section 132 of the SEQ Water Act, which provides that if a development application is made before the commencement then the mandatory delegation of the distributor-retailer's concurrence power and the optional delegation for approving connections to, disconnections from or changes to connections to a distributor-retailer's infrastructure (former section 53(5)(a)(i) and (5)(d)) continues.

New section 963 – Distributor-retailer continue as concurrence agency for staged development applications

New section 963 applies if, before the commencement, a staged development application had been made but not decided and an aspect (the water connection aspect) of the staged development application is for a matter for which the distributor-retailer had a concurrence role and for the same land, or part of the same land, to which the staged development approval relates a later development application of either reconfiguration of a lot or operational works would have been made for the water connection aspect under the Act, if the amending Act had not commenced.

For dealing with and deciding the staged development application the distributor-retailer continues to be the concurrence agency for the aspect. The unamended Act continues to apply to the staged development application, until a development approval for the application takes effect, as if the amending Act had not been enacted.

To avoid any doubt, it is declared that after the development approval takes effect, this Act does not apply to the water connection aspect of the development approval or a later development application or compliance request.

A staged development application means an application for a development approval for reconfiguring a lot.

It is intended that if an application for a staged development (a reconfiguration of a lot) had been made before the commencement but not decided, and a further application for a reconfiguration of a lot or an operational works would have been made, the distributor-retailer continues to be the concurrence agency for the water connection aspect of the application and the unamended Act continues to apply until a development approval for the application takes effect. After the development approval takes effect, the Sustainable Planning Act no longer applies to the water connection aspect of the development approval or later related development applications or compliance requests.

This section needs to be read with section 135 of the SEQ Water Act, which provides that the water connection aspect of the staged development approval is taken to be a water approval for a staged water connection under the SEQ Water Act. All the conditions of the approval in relation to the water connection aspect are taken to be conditions of the water approval.

When an applicant is ready to develop the next stage of the subdivision then the applicant will return to the distributor-retailer with detailed information for the water and sewerage components of the next stage. The applicant will not have to submit a development application or request for compliance assessment under the Sustainable Planning Act for these water and sewerage matters. Rather subsequent applications will be dealt with as a staged water approval under the SEQ Water Act.

New section 964– Staged development approvals

New section 964 applies if before the commencement a staged development approval had been granted and a water connection aspect of the approval is for a matter for which the distributor-retailer had a concurrence role and for the same land or part of the same land a later development application for either a reconfiguration of a lot or operational works would have been made for the water connection aspect but for the amending Act. On and from the commencement the Sustainable Planning Act does not apply to the water connection aspect of the staged development approval or a later development application or compliance request. A staged development means a development approval for reconfiguring a lot.

New section 965 – Distributor-retailer continue compliance assessments

New section 965 applies where compliance assessment was required under the unamended Sustainable Planning Act before the commencement and not completed, and section 77G or 755H applied to the assessment.

This section also applies if an application mentioned in sections 961 or 962, a compliance assessment is required.

For dealing with the assessment, the unamended Act chapter 9, part 7A, division 4 continues to apply as if the amending Act had not been enacted.

It is intended that new section 965 under the Sustainable Planning Act is read in conjunction with the new section 133 of the SEQ Water Act, which provides that if compliance assessment was required before the commencement then the mandatory delegation of the distributor-retailer's compliance assessment functions under chapter 9, part 7A, division 4 of the Sustainable Planning Act to the relevant participating local government (former section 53(5)(a)(ii) and (5)(d)) continues to apply as if the amending Act had not been enacted.

New section 966 – Power to give infrastructure charges notices or negotiated infrastructure charge notices

New section 966 provides that if before the commencement, a development application was made under the unamended Act and an aspect of the application is for a matter for which the distributor-retailer had a concurrence role; then the unamended Act chapter 8 and chapter 9, part 7A continue to apply as if the amending Act had not been enacted.

After the commencement an adopted infrastructure charges notice and a negotiated adopted infrastructure charges notice may be given to a person for infrastructure of a distributor-retailer's water or wastewater service. Also, the person to who the adopted infrastructure charges notice or negotiated adopted infrastructure charge notice has been given may enter into an infrastructure agreement and a condition under chapter 8, part 1, divisions 6 and 7 may be imposed. The unamended Act, chapter 8 and chapter 9, part 7A continue to apply as if the amending Act had not been enacted.

It is intended that section 966 is to be read in conjunction with section 134 of the SEQ Water Act, which provides that if before the commencement a development application in sections 961 or 962 was made, a delegation under the former section 53(5)(c) for infrastructure continues to apply to the existing application and the matters mentioned in sections 961(3) and 962(3) as if the amending Act had not been enacted.

New section 967 – Infrastructure charges notices continue in effect etc.

New section 967 provides that the Sustainable Planning Act continues to apply as if the Sustainable Planning Act were not amended if before the commencement a person was given any of the following:

- infrastructure charges notice
- adopted infrastructure charges notice
- regulated infrastructure charges notice
- negotiated infrastructure charges notice
- negotiated regulated infrastructure charges notice
- negotiated adopted infrastructure charges notice.

New section 968 – Infrastructure agreements

New section 968 provides that an infrastructure agreement continues to apply as if the amending Act had not been enacted if the infrastructure agreement was in force before the commencement and includes the infrastructure of a distributor-retailer in relation to its water or wastewater service.

New section 969 – Adopted infrastructure charges at commencement continue in effect

New section 969 applies if before the commencement, a State Planning Regulatory Provision provided for a charge for the supply of trunk infrastructure, and the distributor-retailer has not adopted a charge for the infrastructure under the SEQ Water Act.

Despite section 648A, an adopted infrastructure charge for trunk infrastructure is:

- if before the commencement, the distributor-retailer's board adopted a charge for the infrastructure under the unamended Act section 755KA, the adopted charge; or
- the standard amount.

Amendment of sch 3 (Dictionary)

Clause 32 Subsection (1) omits from schedule 3 of the Sustainable Planning Act a number of definitions.

Subsection (2) inserts new definitions for 'distributor-retailer', 'participating local government', 'SEQ infrastructure charges schedule', 'standard amount', 'water approval', 'water infrastructure', and 'water service or wastewater service'.

Part 3 Amendment of Sustainable Planning Regulation 2009

Regulation amended

Clause 33 provides this part amends the Sustainable Planning Regulation 2009.

Amendment of sch 4 (Development that can not be declared to be development for a particular type—Act section 232(2))

Clause 34 amends schedule 4, table 5 to include all aspects of development for a connection under the SEQ Water Act, chapter 4C or any work for the purpose of the connection.

Amendment of sch 19 (Compliance assessment of subdivision plans)

Clause 35 amends schedule 19, table 1, item 2, column 2, sections (1)(a)(v), (2) (a)(iv) and (3)(c) to require that the conditions of a water approval under the SEQ Water Act have been complied with and that there are no outstanding fees or charges levied by a distributor-retailer under the SEQ Water Act.

Part 4 Amendment of Water Supply (Safety and Reliability) Act 2008

Act amended

Clause 36 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008*.

Amendment of s 160 (Application of pt 5)

Clause 37 amends section 160 to insert that sections 167 and 168 do not apply to a service provider who is a distributor-retailer. Sections 167 and 168 of the Water Supply Act will no longer apply as chapter 4C of the SEQ Water Act applies instead.

Amendment of ch 2, pt 5, div 4, hdg (Connecting to registered services)

Clause 38 amends chapter 2, part 5, division 4 heading to insert the word ‘particular’.

Amendment of s 167 (Owner may ask for connection to service provider’s infrastructure)

Clause 39 amends section 167 to insert a note.

Omission of s 170 (Sections 170–179 not used)

Clause 40 omits section 170.

Insertion of new ch 2 , pt 5, div 6

Clause 41 inserts a new division 6 into chapter 2, part 5 of the Water Supply Act.

New Division 6 Water approvals under 2009 restructuring Act

New section 170 – Definitions for div 6

New section 170 inserts new definitions for ‘connection’, ‘staged water connection’ and ‘water approval’.

New section 171 – Water approvals—generally

New section 171 provides that section 173 applies if a water approval, other than a water approval for a staged water connection, attaches to land under the 2009 restructuring Act (SEQ Water Act) and a person makes a connection under the water approval to the extent authorised under the approval.

New section 172 – Water approvals—staged water connections

New section 172 provides that section 173 applies if a water approval for a staged water connection attaches to land under the SEQ Water Act and a person makes a connection under the water approval to the extent authorised under the approval.

New section 173 – Deemed consent or approval for water approvals

New section 173 provides that for section 191, 192, 193 and 195 the distributor-retailer is taken to have given the person a written consent or written approval for the connection and a condition of the approval under the SEQ Water Act is taken to be a condition of the written consent or written approval under the Water Supply Act.

However for a staged water approval, the distributor-retailer is only taken to have given the person written consent or written approval for the stage of the approval mentioned in section 172(b).

New section 174 – Section 174–179 not used

New section 174 provides that sections 174 to 179 are not used as per the editor’s note for section 1.

Insertion of new ch 10, pt 7, div 3

Clause 42 inserts new division 3 into chapter 10, part 7 as inserted by this Act.

New Division 3 Provisions for chapter 2 of amending Act

New section 665 – Continuation of requests for connection

New section 665 provides that if before the commencement, an owner of premises asked a service provider to connect the owner’s premises to the service provider’s infrastructure and immediately before the commencement, the owner’s premises were not connected to the service provider’s infrastructure, former chapter 2, part 5 of the Water Supply Act continues to apply to the connection of the owner’s premises as if the amending Act had not commenced.

New section 666 – Continuation of notices requiring connection

New section 666 provides that if before the commencement, a service provider required an owner of premises to carry out works for connecting the premises to a registered service and immediately before the commencement the owner had not satisfactorily completed the works, former chapter 2, part 5 of the Water Supply Act continues to apply to the connection of the owner's premises as if the amending Act had not commenced.

Chapter 3 Reforming the regulation of the water supply industry

Chapter 3 includes amendments to achieve the following objectives: transforming the regulation of water and sewerage service providers; reducing the regulatory burden on recycled water providers; removing the requirement for distributor-retailers and councils to publish draft prices, and increasing the number of councillors allowed on distributor-retailer boards to ensure equal representation of each participating local government; enabling authorised persons appointed by a water service provider to install certain water meters, in addition to licensed plumbers; streamlining appeal provisions relating to dam safety; and repealing the Metropolitan Water Act.

Part 1 Amendment of Plumbing and Drainage Act 2002

Act amended

Clause 43 provides that this part amends the *Plumbing and Drainage Act 2002*.

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

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

New definitions for 'authorised person', 'premises group' and 'relevant water meter' are inserted for section 121(2). A relevant water meter is defined as a water meter that measures the volume of water supplied to a range of premises types, but not to the individual lots or units within multi-unit residential or multi-unit commercial premises (known typically as a sub-meter). This means that a licensed plumber is still required to install sub-meters.

Part 2 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Act amended

Clause 45 provides that this part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

Replacement of s 33 (Membership in general)

Clause 46 replaces section 33 to provide board membership for each participating local government of a distributor-retailer where a distributor-retailer has more than three participating local governments.

New section 33 – Membership in general

New section 33 states that a board is to consist of at least five members and, if the distributor-retailer has more than three participating local governments, it cannot have more than one councillor-member for each participating local government. The board also cannot have more councillor-members than independent members. The board members are appointed by the distributor-retailer's participants.

The section defines 'councillor-member' and 'independent member'.

The intent is to allow each participating local government to have a representative on the board, but there must be at least an equal number of independent board members compared to councillor-members.

Amendment of s 99ATA (Publication etc. of charges)

Clause 47 amends section 99ATA to omit subsections (3) to (6) to remove the requirement for an SEQ service provider (a distributor-retailer or withdrawn council) to publish its proposed water service and wastewater services charges for the following financial year by 31 March. Additionally, SEQ service providers are no longer required to publish a notice of its charges in a newspaper circulating in the SEQ region.

An SEQ service provider is still required to publish and maintain on its website details of its charges relating to water and wastewater services for the current financial year.

Subsections are consequently renumbered.

Amendment of s 99BQ (Matters SEQ service provider must have regard to in making plan)

Clause 48 amends section 99BQ to remove the reference to the EPP Water from the definition of 'total water cycle management plan'. Local governments are no longer required to prepare a total water cycle management plan under the EPP Water. However, if a total water cycle management plan has been developed, an SEQ service provider must have regard to the plan when making its water netserv plan.

Part 3 Amendment of Water Supply (Safety and Reliability) Act 2008

Act amended

Clause 49 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008*.

Amendment of s 12 (Register of service providers)

Clause 50 amends section 12, which required the regulator to publish a list of registered service providers in the gazette as soon as practicable after 1 January each year. The amended provision provides that the regulator is required to publish a list of registered service providers on DEWS's website instead of once every year in the gazette.

Insertion of new s 12A

Clause 51 inserts new section 12A.

New section 12A – Register of registered recycled water schemes

New section 12A provides for a register of recycled water schemes to be kept by the regulator and specifies the information the register must contain. The register may be kept in a form the regulator considers appropriate, including in an electronic form.

The regulator must publish a list of the registered recycled water schemes on DEW's website. The list will state the recycled water provider for a single-entity scheme or, for a multiple-entity scheme, the scheme manager, each recycled water provider and other declared entities. The regulator may publish information about the schemes that is held in the register. This will provide a public record of the registered recycled water schemes that produce and supply recycled water in Queensland.

For each scheme the register will record, among other things, the source of the recycled water for the scheme (e.g. sewage or effluent) and the uses for which the recycled water is supplied (e.g. dust suppression or open space irrigation).

Registering a recycled water scheme does not mean the recycled water provider for the scheme is also a registered 'service provider' under the Water Supply Act.

Amendment of s 13 (Requirement for responsible entity to give information)

Clause 52 amends section 13 to provide for additional matters that the regulator may require information about. The regulator may require a responsible entity, by written notice, to give the regulator information about water security within a stated reasonable period.

New subsection (1A) provides that if the regulator requires information, this requirement is not limited to information the responsible entity has at the time the requirement is made. Information may need to be generated by the responsible entity to fulfil the regulator's requirement. For example, new information about the remaining water supply may need to be generated to assist the regulator in forming a view about any risk to water security.

Subsections are consequently renumbered.

Amendment of s 35 (Power to install meters)

Clause 53 inserts a note into section 35 which clarifies that the installation of a sub-meter is still plumbing work that must be carried out by a licensed plumber.

Amendment of s 36 (Power to enter places for restricted purposes)

Clause 54 amends section 36 to provide that an authorised person may also enter a place to install a meter. This is in addition to existing entry powers which allow an authorised person to: inspect, operate, change, maintain, remove, repair or replace a service provider's infrastructure; or install a device to reduce the water supply to premises at the place. A person must satisfy the requirements provided in section 45 of the Water Supply Act prior to being appointed as an authorised person.

Amendment of s 45 (Appointing authorised persons)

Clause 55 amends section 45 to insert new subsection (2) which provides that, before a service provider appoints a person as an authorised person, the service provider must be satisfied that the person can perform the functions of an authorised person safely and in a way that mitigates any risks to public health and safety.

Omission of ch 2, pt 4, divs 1 and 2

Clause 56 omits chapter 2, part 4, divisions 1 and 2, which related to the requirement for service providers to have strategic asset management plans and, for particular water service providers, system leakage management plans. The provisions for these plans are repealed by the Bill and replaced by the annual performance reporting framework.

Insertion of new s 99A

Clause 57 inserts new section 99A.

New section 99A – Amendment of drinking water quality management plan— agreement

New section 99A enables a drinking water service provider to make minor amendments to an approved drinking water quality management plan (e.g. to record a change of name or change of ownership). The regulator must agree that the amendments are not substantial enough to trigger a requirement for the regulator to review the plan in total. The updated plan is taken to be the drinking water service provider's approved drinking water quality management plan. This provision is consistent with a similar provision for amending recycled water management plans.

Amendment of s 100 (Amendment of drinking water quality management plan— application)

Clause 58 amends section 100 as a consequence of new section 99A. A drinking water service provider is not required to apply for approval of a proposed amended drinking water quality management plan if the type of amendment is mentioned in new section 99A(1).

Omission of s 105 (Application of div 4)

Clause 59 omits section 105. Section 105 is omitted to reflect the repeal of strategic asset management plans, system leakage management plans and drought management plans.

Amendment of s 106 (Reviewing plans)

Clause 60 amends section 106 to remove the requirement for service providers to regularly review strategic asset management plans and system leakage management plans as these plans are repealed by the Bill. Subsection (6) is also omitted, which provided that a service provider must include in its annual report the outcome of, and actions resulting from, a review under this section. The requirements of subsection (6) are already provided for in the annual reporting provision for drinking water quality management plans (section 142 as amended by the Bill).

Subsections are consequently renumbered.

Amendment of s 107 (Changing plans following review)

Clause 61 amends section 107 to remove the requirement for providers to change strategic asset management plans and system leakage management plans following a review. These plans are being repealed and replaced by the annual performance reporting framework.

Subsections are consequently renumbered.

Replacement of s 108 (Providing regular audit reports)

Clause 62 replaces section 108. The new provisions do not include a requirement for audit reports relating to strategic asset management plans and system leakage management plans. The requirement for an audit report relating to a drinking water quality management plan is not materially different from the relevant parts of the replaced section 108.

New section 108 – Ensuring audits of drinking water quality management plan

New section 108 provides a requirement for service providers to audit their drinking water quality management plan, and prepare a drinking water quality management plan audit report that complies with this section. The audits must be conducted at the intervals stated in a notice given under section 99.

The auditor cannot be an employee of the provider or employed in operating its infrastructure. Additionally, the auditor must be certified under the Drinking Water-Quality Management System Auditor Certification Scheme (to conduct an audit of the type required) or have similar qualifications that the regulator accepts are equivalent.

The drinking water quality management plan audit report must:

- verify if the monitoring and performance data given to the regulator is accurate
- assess the provider's compliance with the plan and its conditions
- assess the relevance of the plan to the provider's drinking water service.

The audit report must also be prepared in accordance with the guidelines, if any, made by the regulator about preparing the relevant audit report.

A service provider must give the regulator the audit report within 30 business days after the audit is completed. An offence is created for noncompliance with this section that has a maximum penalty of 500 penalty units. A 'reasonable excuse' defence has also been included.

New section 108A – Ensuring audits of particular performance reports

New section 108A provides a requirement for service providers to audit the data in its performance report for each notified year, and prepare a performance audit report that complies with this section. The audit report must be given to the regulator on or before the later of 1 October in the notified year or 30 days after notification that an audit report must be prepared for that year.

The auditor must be a qualified auditor who is not an employee of the provider or employed in operating its infrastructure.

The purpose of the performance audit report is to verify if the data submitted to the regulator in the service provider's performance reports, for the financial year preceding the notice, is accurate. The audit report must include the data for each key performance indicator in the way that is stated in a notice from the regulator.

An offence is created for noncompliance with this section that has a maximum penalty of 500 penalty units. A 'reasonable excuse' defence has also been included. However, a service provider is taken to have complied with this section if the provider complies with another audit process, under another Act, which would also enable the provider to give verification that meets the requirements of this section.

Amendment of s 109 (Declarations about regular audit report)

Clause 63 amends section 109 to remove references to a 'regular audit report' which related to strategic asset management plans and system leakage management plans. Section 109 has been broadened to include all audit reports under division 4. That is, an audit report under division 4 must be accompanied by a statutory declaration by the service provider and the auditor. The heading of section 109 is also changed to reflect the amendments made to this section.

Amendment of s 110 (Spot audits of plans)

Clause 64 amends section 110 to remove references to strategic asset management plans and system leakage management plans. The provisions for spot audits of drinking water quality management plans remain unchanged. There is no provision for spot audits of annual performance reporting.

Subsections are consequently renumbered.

Amendment of s 114 (Application of div 5)

Clause 65 amends section 114 to exclude service providers that are not relevant service providers from having to prepare and publish a customer service standard. The heading of section 114 is also amended to reflect renumbering of division 5 as division 3.

A 'relevant service provider' is defined by the Bill as a drinking water service provider, a sewerage service provider or another water service provider prescribed under a regulation.

Replacement of ss 115 and 116

Clause 66 replaces sections 115 and 116.

New section 115 – Preparing customer service standards

New section 115 provides an expanded requirement for service providers to prepare and consult with customers about the proposed customer service standard for the registered service. A service provider must publish the proposed customer service standard and any person can make submissions about the proposed customer service standard within the period set by the provider. The provider must consider any submissions made before preparing a final customer service standard for the registered service. For new service providers, the final customer service standard must be prepared within six months after the service provider being registered.

Transitional arrangements for service providers with an existing customer service standard are provided under new section 661.

The requirement for providers to consult during the development of the customer service standard allows for a dialogue with customers who may be affected by the level of service targets in the customer service standard. It also enables providers to discuss with customers the impacts of particular levels of service on future prices.

Note that this section should be read in conjunction with new section 575A, which requires service providers to publish their final customer service standard on the internet.

New section 116 – Content of customer service standard

New section 116 requires a customer service standard to include target levels of service for certain key performance indicators. These key performance indicators (termed CSS KPIs) will be set in a notice by the regulator and will include those indicators that best measure a customer's direct experience of the service. The provision enables customer service standards to have different parts for separate schemes, as some providers have different levels of service for different schemes within their registered service.

The reference to guidelines made by the regulator has been omitted as there will be no regulatory guidelines for customer service standards.

Amendment of s 119 (Revising customer service standard)

Clause 67 amends section 119 to remove the requirement for a service provider to give a copy of their revised customer service standard to each customer and interested entity where a complaint to the regulator has triggered a review. The provider is still required to revise the customer service standard having regard to the complaint and, under new section 575A, publish the revised customer service standard on the internet. Engagement between providers and customers has been enhanced by the requirement in section 115, as amended by the Bill, for providers to consult with customers in preparing their customer service standards and when reviewing the standards.

Amendment of s 120 (Reviewing customer service standard)

Clause 68 amends section 120 to replace the requirement for an annual review of customer service standards with the requirement for a review at least every five years. Section 120(2) has been amended to require consultation (as outlined in amended section 115) about the customer service standard at each review stage.

Annual reviews of customer service standards are considered too onerous for providers. A review at least every five years is considered a more reasonable requirement. This does not prevent a service provider from undertaking a review of their customer service standard more frequently.

Omission of ch 2, pt 4, divs 6, 7 and 11

Clause 69 omits chapter 2, part 4, divisions 6, 7 and 11 which related to the requirement for particular service providers to have drought management plans, outdoor water use conservation plans, and exemptions for small service providers.

Omission of s 139 (Service provider to give occupier water advice)

Clause 70 omits section 139 to remove the requirement for a service provider to give water consumption data to a residential tenant.

Replacement of ch 2, pt 4, div 9 (Annual reports)

Clause 71 replaces division 9 with a new division 5. The new division no longer requires service providers to report annually on strategic asset management plans, system leakage management plans, and customer service standards. The requirement for annual reporting on drinking water quality management plans is retained under new section 142, and the requirement for service providers subject to the system operating plan to report annually on the system operating plan is retained unchanged under new section 142B.

New Division 5 Reporting for particular financial years

New section 141 – Notices about reports

New section 141 provides that the regulator may give a ‘relevant service provider’ a notice, at any time, requiring the inclusion of information in the provider’s drinking water quality management plan report, or performance report.

A ‘relevant service provider’ is defined by the Bill as a drinking water service provider, a sewerage service provider or another water service provider prescribed under a regulation.

For a drinking water quality management plan report, required under section 142, the notice must state the information that is required to be included in the report about the service provider’s compliance with the plan.

For a performance report, required under section 142A the notice must state the key performance indicators that must be included in the report and the way in which the data on the key performance indicators must be submitted. The intention is that this data must be submitted electronically to the regulator in a form that can be readily manipulated for purposes of analysis.

New section 142 – Drinking water quality management plan reports

New section 142 provides that a relevant service provider must prepare a report about its drinking water quality management plan and compliance with the plan for its drinking water service (a drinking water quality management plan report).

A drinking water quality management plan report must be prepared for each financial year after the financial year in which the provider's plan was approved. A copy of the report must be given to the regulator 120 business days after the end of the financial year to which the report relates.

Subsection (3) states the matters that must be addressed by the report. In addition to including the information required under the latest notice given to the provider under section 141, the report must state or include:

- the actions the provider took to implement the plan
- the outcome of any review of the plan in the financial year and how the provider has addressed the matters raised in the review
- a summary of the findings and recommendations of a report under section 108, if an audit report has been prepared for the financial year
- details of any information given to the regulator in the financial year under sections 102 and 102A
- details of the provider's compliance with water quality criteria for drinking water
- details of any complaints made by the provider's customers about its drinking water service.

If the service provider is a prescribed related entity, the annual report must include or be accompanied by the relevant infrastructure owner's written agreement to the report – as required under new section 142C(2).

While this section replaces the former annual reporting provision on drinking water quality management plans, it no longer requires annual reports to comply with a regulatory guideline.

An offence, including a 'reasonable excuse' defence, is created for noncompliance with this section with a maximum penalty of 500 penalty units.

New section 142A – Performance reports

New section 142A provides that a relevant service provider must prepare and give a report to the regulator about the provider's performance (a performance report). This obligation applies for each financial year starting on or after the regulator gives the provider a notice requiring the provider to prepare performance reports.

Subsection (3) states the matters that must be addressed by the performance report. In particular, the report must detail the service provider's performance measured against the relevant key performance indicators, stated in the latest notice under section 141, for the financial year to which the report relates.

The report must also state or include:

- details of the targets for levels of service set against the CSS KPIs
- a summary of the findings and recommendations of a performance audit report under section 108A
- data for each key performance indicator, submitted in the way stated in the latest notice
- a report about the implementation of any improvement plan
- a report about what actions the provider took because of any direction given to it under section 436(1)(a) during the relevant financial year.

In addition to this information, the relevant service provider may provide a commentary on its performance. For example, a service provider may wish to comment on the matters that impacted on, improved or deteriorated its performance for the financial year.

A performance report must be prepared for each financial year after the regulator gives the provider a notice about the report under section 141. A copy of the report must be given to the regulator on or before 1 October immediately after the end of the financial year to which the report relates.

If the service provider is a prescribed related entity, the report must include or be accompanied by the relevant infrastructure owner's written agreement to the report – as required under new section 142C(2).

An offence, including a 'reasonable excuse' defence, is created for noncompliance with this section that has a maximum penalty of 500 penalty units.

New section 142B – System operating plan reports

New section 142B provides that a service provider must prepare a report about a system operating plan that applies to the provider and the provider's performance against the desired levels of service objectives as well as against other obligations and requirements that apply under the plan. This is not a new requirement but a new section resulting from the restructuring of reporting provisions by the Bill.

While this section replaces the former annual reporting provision on the system operating plan, it no longer requires annual reports to comply with a regulatory guideline.

New section 142C – Common provisions for reports

New section 142C provides for common provisions that apply to annual reports prepared under sections 142, 142A and 142B.

Subsection (2) applies if the relevant service provider is a related entity of the infrastructure owner and provides that a drinking water quality management plan report or performance report must include, or be accompanied by, the relevant infrastructure owner's written agreement to the report.

Subsection (3) provides that the reports mentioned in division 5 may be combined unless doing so would prevent the provider from submitting the reports within the required time frames.

New section 142D – Application of division to chief executive

New section 142D provides for the circumstances in which the chief executive is not required to report under division 5. Although recast in a new section, the reporting requirements for the chief executive have not been changed.

Amendment of s 180 (Approvals for discharge of trade waste and seepage water)

Clause 72 amends section 180 to replace 'relevant environmental plan' with a 'trade waste plan'. This section also defines 'trade waste plan'.

The term 'relevant environmental plan' referred to particular plans required under the EPP Water and the obligation for these plans has since been removed. However, if a service provider already has a 'trade waste plan', the provider may only give a trade waste approval if it is consistent with the trade waste plan.

Insertion of new ch 3, pt 1A

Clause 73 inserts a new chapter 3, part 1A.

New Part 1A Recycled water schemes

New Division 1 Registration

New section 196AA – Requirement to seek registration

New section 196AA provides that a 'relevant entity' for a recycled water scheme, other than a CSG recycled water scheme, must apply to register their scheme with the regulator before the 'deadline'. Deadline is defined, and differs depending on whether or not an approved recycled water management plan is required for the recycled water scheme.

This section is subject to transitional provisions in section 664 under which a prescribed deadline is set for existing recycled water schemes.

If an approved recycled water management plan is required (under section 196 as amended by the Bill), the deadline means that the scheme must be registered before recycled water is supplied for the particular use or uses. If an approved recycled water management plan is not required, the deadline means that the scheme must be registered before a day that is three months after recycled water is first supplied under the scheme.

CSG recycled water schemes are required to have an approved recycled water management plan (or exclusion decision) before commencing to supply but are not subject to the registration requirements.

New section 196AB – Registration application

New section 196AB provides that an application for registration must be in the approved form, supported by sufficient information to enable the regulator to register the scheme, and be accompanied by the fee prescribed under a regulation. This section should be read in conjunction with section 12A, which specifies the information that the register of recycled water schemes must contain.

For a multiple-entity recycled water scheme, the scheme manager is the relevant entity that is required to apply to register the scheme with the regulator. Otherwise, for a single-entity recycled water scheme, the recycled water provider must apply to register the scheme.

Under subsection (2), the regulator may require the relevant entity to provide additional information about the application. Under subsection (3), the regulator may require the information contained in the application, or any additional information provided, to be verified by statutory declaration.

New section 196AC – Registration of recycled water scheme

New section 196AC provides that the regulator must register a recycled water scheme if the regulator is satisfied an application has complied with the requirements of section 196AB. That is, the relevant entity has applied in the approved form and provided sufficient information with the application for the regulator to complete the registration and has complied with any requests under sections 196AB(2) and 196AB(3). The regulator must give the relevant entity notice of the registration and the registration takes effect from the day the regulator registers the scheme in the register of recycled water schemes.

New Division 2 Changing registration details

New section 196AD – Applying to change details of registration

New section 196AD provides that a ‘relevant entity’ for a registered recycled water scheme must apply to change the scheme’s registration details if the scheme’s details have changed from what is recorded in the register.

The relevant entity for a single-entity recycled water scheme is the recycled water provider for the scheme. The relevant entity for a multiple-entity recycled water scheme is the scheme manager.

The application to change registration details must be made in the approved form. When the regulator receives the application, the regulator must record the changes in the register and give the relevant entity notice of the changes as recorded in the register. For this section, ‘register’ means the register of recycled water schemes kept under new section 12A.

New section 196AE – Applying to cancel registration

New section 196AE provides that a ‘relevant entity’ for a registered recycled water scheme may apply to the regulator to cancel the registration of their recycled water scheme if the supply of recycled water is permanently ceasing.

The relevant entity for a single-entity recycled water scheme is the recycled water provider for the scheme. The relevant entity for a multiple-entity recycled water scheme is the scheme manager.

The application to cancel registration must be made in the approved form. When the regulator receives the application, the regulator must record the cancellation in the register and give the relevant entity notice confirming the cancellation. For this section, ‘register’ means the register of recycled water schemes kept under new section 12A.

Replacement of s 196 (Offence about supplying recycled water)

Clause 74 replaces and renames section 196.

New section 196 – Offence about supplying recycled water without approved recycled water management plan

New section 196 specifies that certain types of recycled water schemes must have an approved recycled water management plan before commencing to supply recycled water under the scheme for the particular uses.

An approved recycled water management plan is required if recycled water is supplied:

- under a critical recycled water scheme
- under a CSG recycled water scheme
- to augment a drinking water supply
- by way of a dual reticulation system
- for use in irrigating minimally processed food crops.

A definition for ‘minimally processed food crops’ is provided for the section. Noncompliance with this section is an offence with a maximum penalty of 1665 penalty units.

Most recycled water schemes supply recycled water for a range of different uses. Where this is the case, the recycled water management plan need only address the critical elements of the scheme (for which a critical declaration is made) or the uses for which the plan is required under new section 196.

The regulator will also have the power to nominate, under a regulation, other types of recycled water schemes that will require an approved recycled water management plan. This power is intended to be exercised where there is evidence that the supply of recycled water by those types of schemes poses significant public health risks that need to be managed proactively and subjected to closer regulatory oversight.

Under the Bill, the ability to apply for an exemption is removed. The recycled water providers that are no longer required to have an approved recycled water management plan for their recycled water scheme will instead be required to register their scheme under new section 196AA. No other statutory obligations will apply to these recycled water schemes under the Water Supply Act. But the regulator can exercise emergency direction powers in relation to these schemes if an event occurs that may have an adverse effect on public health; similarly, the chief executive administering the Public Health Act has powers to manage public health risks related to recycled water production or supply.

Under section 57F of the Public Health Act, recycled water providers are subject to a general duty to supply recycled water that is 'fit for use'. This is an existing provision which applies to recycled water providers whether or not the provider is required to have a recycled water management plan for their scheme. The commission of an offence against this section could attract a maximum financial penalty equivalent to 1350 penalty units or two years imprisonment.

Amendment of s 197 (Offences about compliance with exemption or recycled water management plan)

Clause 75 amends section 197 to remove the reference to 'exemption' in the heading and to remove the requirement for a recycled water provider, who has been granted an exemption, to comply with the exemption conditions. The exemptions provisions are repealed by the Bill.

Replacement of s 201 (Preparing particular plans)

Clause 76 replaces and renames section 201. New section 201 has been recast but is otherwise not materially different from the provision it replaces.

New section 201 – Content of particular plans

New section 201 states the required contents of a recycled water management plan. A recycled water provider for a single-entity recycled water scheme must prepare a recycled water management plan for the provider's scheme that addresses the required contents.

For a multiple-entity recycled water scheme the scheme manager must prepare a scheme manager plan and each recycled water provider and other declared entity must prepare a scheme provider plan for the scheme. The recycled water management plan for a multiple-entity scheme comprises the scheme manager plan and the scheme provider plans.

All recycled water management plans, including scheme manager and scheme provider plans, must be prepared in accordance with the guidelines, if any, made by the regulator about preparing recycled water management plans and validating recycled water schemes.

Subsection (4) provides that the requirements under section 201(1) do not apply to an interim recycled water management plan for a CSG recycled water scheme.

Amendment of s 202 (Application for approval of recycled water management plan)

Clause 77 amends section 202 to remove the requirement for all recycled water providers to apply for approval of a recycled water management plan. The amended section makes it clear that only recycled water providers required to have an approved recycled water management plan under new section 196 need to apply for approval of their plan.

Omission of ch 3, pt 5 (Exemptions)

Clause 78 omits chapter 3, part 5 which provided a framework for recycled water providers to apply for an exemption from the requirement to have an approved recycled water management plan and to operate under a granted exemption.

Exemptions will no longer be available for eligible recycled water schemes but all providers (with the exception of CSG recycled water schemes) will be required to apply to register their scheme under new section 196AA. Critical schemes and schemes that have a higher potential to expose the public to hazards are required to have an approved recycled water management plan.

Amendment of s 270AA (Application of div 1)

Clause 79 amends section 270AA to remove the reference to an exemption. Only recycled water providers with an approved recycled water management plan will be required to report on noncompliance with water quality criteria or report on prescribed incidents.

Amendment of s 273 (Annual reporting requirement)

Clause 80 amends section 273 to remove the reference to an exemption. Only recycled water providers with an approved recycled water management plan will be required to provide annual reports to the regulator. Section 273 is also amended to clarify which audit reports are referred to in new subsection (2)(c).

Amendment of s 400 (Functions)

Clause 81 amends section 400(b) to outline a new function for authorised officers to conduct investigations and inspections to monitor the performance of relevant service providers in relation to their water or sewerage service.

Amendment of s 410 (Power to enter land to monitor compliance)

Clause 82 amends section 410 to remove the power for an authorised officer to enter land to monitor compliance with the conditions of an exemption relating to the production or supply of recycled water because the exemption provisions are repealed by the Bill.

Subsections are consequently renumbered.

Amendment of s 435 (Application of pt 5)

Clause 83 amends section 435 to remove the reference to an exemption as the exemption provisions are repealed by the Bill.

Omission of s 445 (Sections 445–449 not used)

Clause 84 omits section 445 to provide for new part 5A.

Insertion of new ch 5, pt 5A

Clause 85 inserts a new part 5A into chapter 5, which includes new sections 445 to 449 that provide for monitoring the performance of relevant service providers.

New Part 5A Particular provisions to monitor relevant service providers

New Division 1 Investigations

New section 445 – When regulator may investigate and recover costs

New section 445 provides for when the regulator may commence an investigation about a relevant service provider's water or sewerage service. An investigation can be triggered if the regulator reasonably believes there is a risk to water security or continuity of the supply of the relevant service provider's water or sewerage service.

The regulator's compliance approach and decision-making criteria for triggering an investigation under this section will be published on DEWS's website.

The purpose of the investigation is to determine whether there are any substantial issues related to service provision that need to be remedied by the service provider where those issues relate to water security or continuity of supply of water or sewerage service. The regulator must give a copy of any investigation report to the relevant service provider.

After the investigation, the regulator may decide to give the relevant service provider a notice claiming reasonable expenses incurred by the regulator in conducting the investigation. This may include costs for a third party to undertake the investigation. A cost recovery requirement can only be made if, after the investigation, the regulator is satisfied that there is a risk to water security or continuity of the service provider's service. If the regulator makes a cost recovery requirement, the regulator must give an information notice about the decision to the service provider. The service provider has a right to apply for review of the decision.

The information notice about the claimed amount must state the claimed amount, include a description of the reasonable expenses incurred, and state that if the service provider does not pay within 30 days after the notice is given the regulator may recover the amount and any interest payable from the service provider as a debt.

If the service provider does not pay the claimed amount and the interest payable within 30 days after the notice is given then the amount and the interest payable may be recovered by the regulator as a debt. The claimed amount that is a debt bears interest at the rate stated in a regulation.

The ability to recover costs ensures the regulator is appropriately recompensed for reasonable expenses, including expenses relating to a third party being engaged by the regulator to undertake the investigation.

New Division 2 Improvement plans

New section 446 – Regulator may require an improvement plan

New section 446 outlines when the regulator may give a relevant service provider a notice (an improvement notice) requiring the provider to submit an improvement plan. This is when the regulator is satisfied (after an investigation has been completed) that there is a risk to water security or continuity of the supply of the provider's service but is not satisfied that adequate measures to address the risk are in place.

The improvement notice must state that the regulator requires the service provider to make an improvement plan, give a copy of the plan to the regulator within a stated reasonable period, and implement the plan. The improvement notice will outline the requirements for the improvement plan, the outcomes to be achieved by implementing the improvement plan and, in particular, any recommendations from an investigation that need to be addressed. The improvement notice will also be accompanied by an information notice about the decision to give to relevant service provider an improvement notice. This affords the service provider the right to apply for a review of the decision.

Subsection (3) provides that the regulator must give a show cause notice to the service provider before giving an improvement notice. The regulator must consider any properly made submissions given in response to the show cause notice. This gives a provider the opportunity to demonstrate to the regulator that an improvement notice is not required.

The service provider's improvement plan must state how the provider intends to address the relevant recommendations from the investigation, the funding options for addressing the recommendations, the time frames for implementing the plan, and the requirements for reporting on progress.

New section 447 – Offence to contravene improvement plan notice

New section 447 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.

New Division 3 Directions for water security or continuity of supply

New section 448 – Power to give direction for water security or continuity of supply

New section 448 provides that the regulator may, for the purpose of preventing or minimising a risk to water security or continuity of the supply of a relevant service provider's water or sewerage service, direct a provider by notice to take reasonable steps within a reasonable period. However, the regulator may only make such a direction if the regulator reasonably believes that there is an imminent risk to water security or continuity of supply of the water or sewerage service and urgent action is necessary to prevent or minimise the risk, and the regulator is not satisfied that adequate measures to address the risk are in place.

The regulator must, as soon as practicable after giving a direction, give the provider an information notice about the decision to give the direction. This affords the service provider the right to apply for a review of the decision.

New section 449 – Offence to contravene direction

New section 449 provides that a relevant service provider, given a direction under section 448, must comply with the direction, unless the provider has a reasonable excuse. An offence is created for noncompliance with a maximum penalty of 1665 penalty units.

Amendment of s 468 (Regulator may engage expert and recover costs)

Clause 86 amends section 468 to clarify that the regulator may only exercise the power to recover the costs of engaging an expert to investigate a suspected contravention of the Water Supply Act in certain circumstances. The policy intent at the time this provision was enacted was to provide a person a right to appeal the regulator's reasonable belief of contravention and to only enable the regulator to recover the costs of the investigation if the person, subject to the outcome of an appeal if a proceeding was commenced, was found to have contravened a provision of the Water Supply Act. However, the provision is deficient and unclear as to this policy intent.

The amendment provides that if a person applies for an internal review of the regulator's reasonable belief of noncompliance, the regulator cannot recover the cost of the expert investigation:

- until the review has been concluded; and
- unless the review decision confirms the regulator's decision.

Amendment of s 511 (Appeal or external review process starts with internal review)

Clause 87 amends section 511 to clarify that, in addition to every appeal or application for external review of an original decision, every application for arbitration on a review decision must first be made by way of an application for internal review. The heading of section 511 is also changed to reflect the amendments made to the section.

Amendment of s 515 (Notice of review decision)

Clause 88 amends section 515 to simplify the provision and improve its readability. The amended section 515 is not materially different from the current provision and it continues to set out requirements for review notices.

The review notice must state the reasons for the review decision.

If an applicant has a right to appeal the review decision to the Planning and Environment Court, the notice must state how the person may appeal and that the person may apply to the Court for a stay of the review decision.

If an applicant has a right to apply for external review of the review decision to Queensland Civil and Administrative Tribunal (QCAT), the review notice must comply with section 157(2) of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act). A person may also apply to QCAT for a stay of the review decision.

If an applicant has a right to apply for arbitration of a review decision to the Queensland Competition Authority, the review notice must state how the applicant applies for arbitration on the review decision and that the applicant may apply to a court with jurisdiction to hear the proceeding for a stay of the review decision.

Amendment of s 516 (Stay of operation of original decision)

Clause 89 amends section 516 to simplify the provision and improve its readability by referring to parts of the Water Supply Act rather than individual sections.

Replacement of s 517 (Who may appeal or apply for an external review)

Clause 90 replaces section 517.

New section 517 – Who may appeal or apply for an external review

New section 517 has been simplified to improve its readability. Although the section is recast, the only material changes are to provide that all appeals against a review decision relating to dam safety and flood mitigation are directed to the Planning and Environment Court, and to specify that applications for appeal to the Planning and Environment Court must be made within 30 business days after the review notice is given.

An application for external review of a review decision to QCAT must be made within 28 days, in accordance with the QCAT Act.

Amendment of s 524 (Who may apply for arbitration)

Clause 91 amends section 524 to make a minor improvement to its readability that does not materially change the provision. The amendment provides that an interested person who applies for an internal review of an original decision and is dissatisfied with the review decision may give the Queensland Competition Authority a notice applying for arbitration of the review decision.

Amendment of s 571 (Regulator may make guidelines)

Clause 92 amends section 571 to remove the regulator's ability to make certain regulatory guidelines about:

- preparing a strategic asset management plan
- preparing a system leakage management plan
- granting an exemption from preparing a system leakage management plan
- preparing annual reports under former section 142
- preparing a customer service standard
- preparing a drought management plan
- preparing an outdoor water use conservation plan
- preparing drinking water quality management plan annual reports.

Section 571 is also amended to remove the regulator's ability to make guidelines about applying for, and granting, an exemption from preparing a recycled water management plan. The exemption provisions are repealed by the Bill.

Subsections are consequently renumbered.

Amendment of s 575 (Documents service provider must keep available for inspection and purchase)

Clause 93 amends section 575 to provide for the documents that a service provider must keep available for inspection and purchase. Drought management plans, strategic asset management plan audit reports and system leakage management plan audit reports have been removed from the list of documents. Performance reports, performance audit reports, drinking water quality management plans and customer service standards have been added to the list of documents that a service provider must keep available for inspection and purchase.

This amendment should be read with new section 575A, which provides for the documents that a service provider must publish.

Insertion of new s 575A

Clause 94 inserts new section 575A.

New section 575A – Documents service providers must publish

New section 575A requires service providers to publish the following documents unless the provider has a reasonable excuse:

- any guidelines made for preparing a water efficiency management plan
- customer service standards
- drinking water quality management plan reports prepared under section 142
- performance reports prepared under section 142A
- service area maps prepared under section 163.

Publish, in this case, means to publish the document on the internet as soon as practicable. The requirement to publish certain documents will improve a service provider's transparency and accountability to its customers. It is intended that service providers have the discretion to redact personal details or commercially sensitive information contained in any of these documents.

An offence, with a 'reasonable excuse' defence, is created for noncompliance with this section with a maximum penalty of 50 penalty units.

Amendment of s 576 (Documents recycled water provider and scheme managers must keep available for inspection and purchase)

Clause 95 amends section 576 to specify the documents that a 'relevant entity' must keep available for inspection and purchase. In addition to regular audit reports prepared under section 261 and annual reports prepared under section 273, the relevant entity must keep copies of its recycled water management plan available for inspection and purchase.

For a single-entity recycled water scheme, the recycled water provider is the relevant entity. For a multiple-entity recycled water scheme, the scheme manager is the relevant entity.

This amendment should be read with new section 576A, which provides for the documents that a relevant entity must publish.

Subsections are consequently renumbered.

Insertion of new s 576A

Clause 96 inserts new section 576A.

New section 576A – Documents recycled water providers and scheme managers must publish

New section 576A provides that the 'relevant entity' must publish its annual report prepared under section 273, unless the relevant entity has a reasonable excuse. For a single-entity recycled water scheme, the recycled water provider is the relevant entity. For a multiple-entity recycled water scheme, the scheme manager is the relevant entity.

Publish, in this case, means to publish the document on the internet as soon as practicable. The requirement to publish certain documents will improve the transparency and accountability of recycled water providers to customers. It is intended that relevant entities have the discretion to redact personal details or commercially sensitive information contained in any of these documents.

An offence, with a 'reasonable excuse' defence, is created for noncompliance with this section with a maximum penalty of 50 penalty units.

Insertion of new ss 578A and 578B

Clause 97 inserts new sections 578A and 578B.

New section 578A – Chief executive may prepare and publish comparative reports

New section 578A provides that the chief executive may prepare and publish a comparative report about two or more relevant service providers. The chief executive may use a variety of information sources to analyse service provider performance and include this information and analysis in the report. The types of information can include, but are not limited to, a summary of information about compliance actions, investigations, progress on any improvement plans, and data submitted by providers in a drinking water quality management plan report or performance report.

The purpose of the comparative report is to improve transparency and accountability of service providers for customers and it will enable the public and providers to compare the performance of service providers.

New section 578B – The chief executive may share information in particular reports etc.

New section 578B clarifies that the chief executive may give to any person a drinking water quality management plan report, a performance report, an investigation report under chapter 5, and the information in a relevant service provider's improvement plan.

The intent is to enable sharing of information with appropriate persons to assist in the development of a comparative report. Annual reports are required to be made and published by each provider; however, this information may be more efficiently shared with other agencies (e.g. the National Water Commission) by DEWS.

Insertion of new ch 10, pt 7

Clause 98 inserts new chapter 10, part 7.

New Part 7 Transitional provisions for Water Supply Services Legislation Amendment Act 2014

New Division 1 Preliminary

New section 660 – Definitions for pt 7

New section 660 provides definitions for part 7. The section defines 'amending Act' as the *Water Supply Services Legislation Amendment Act 2014*, 'commencement' as the commencement of the provision in which the term is used, and 'former' to mean, for a provision, the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

New Division 2 Provision for chapter 3 of amending Act

New section 661 – Customer service standards continue to apply

New section 661 provides that existing customer service standards continue in effect on and from the commencement date and will cease to have effect when the new customer service standard is published by the service provider. The service provider must prepare a new customer service standard before the later of the following:

- the day that is 31 December 2014
- the day that is six months after the commencement.

New section 662 – Exemptions from having a recycled water management plan are revoked

New section 662 provides that all granted exemptions under former section 253, from the requirement to have an approved recycled water management plan, are revoked. Additionally, all applications for an exemption under former section 250, made but not decided before commencement, are taken to be withdrawn.

New section 663 – Particular approved recycled water management plans of no effect

New section 663 applies to recycled water management plans:

- in effect immediately before the commencement; or
- in effect after the commencement, if the application for approving the plan was made, but not decided, before the commencement.

To be clear, for the purpose of subsection (1)(b), an application for approving the plan includes an application to amend an approved plan.

These recycled water management plans are of no effect to the extent that the plan relates to the supply of recycled water for a use that under section 196, as amended by the Bill, does not require an approved recycled water management plan.

Some schemes supply recycled water for multiple uses, such as for irrigation of minimally processed food crops (required to have an approved plan under amended section 196) and for irrigation of woodlots (not required to have an approved plan under amended section 196). Where a scheme supplied recycled water for multiple uses, the parts of the approved recycled water management plan that relate to critical elements (for which a critical declaration is made) or the uses for which the plan is required under amended section 196 continue in effect while the other parts of the plan for all other uses are of no effect.

New section 664 – Particular recycled water providers must apply for registration of recycled water scheme

New section 664 provides a transitional period before the relevant entity for an existing recycled water scheme, excluding CSG recycled water schemes, is required to register their scheme under new section 196AA(1). Existing schemes are those supplying recycled water immediately before the commencement of this section. The transitional period ends on the deadline, which is 1 July 2014.

Amendment of sch 3 (Dictionary)

Clause 99 amends schedule 3 (Dictionary) for the purposes of the Bill.

Definitions for ‘annual report’, ‘appropriately qualified’, ‘approved system leakage management plan’, ‘available for inspection and purchase’, ‘condition’, ‘drought management plan’, ‘interested entity’, ‘outdoor water use conservation plan’, ‘publish’, ‘regulator conditions’, ‘strategic asset management plan’, ‘small service provider (non-urban)’, ‘system leakage management plan’ and ‘water advice’ are omitted.

New definitions are inserted for ‘annual report’, ‘condition’, ‘drinking water quality management plan audit report’, ‘drinking water quality management plan report’, ‘improvement plan’, ‘KPI’, ‘performance audit report’, ‘performance report’, ‘publish’, ‘regulator conditions’, ‘relevant service provider’, ‘report requirement’, and ‘system operating plan report’.

Definitions for ‘approved drinking water quality management plan’, ‘auditor’, ‘information requirement’, ‘regular audit’, and ‘water quality criteria’ are amended.

Part 4 Repeal

Repeal of the Metropolitan Water Supply and Sewerage Act 1909

Clause 100 repeals the *Metropolitan Water Supply and Sewerage Act 1909*. The Metropolitan Water Act originally established and governed the operations of the Metropolitan Water Supply and Sewerage Board until it was disestablished in 1928 and the powers were assigned to Brisbane City Council. The provisions of the Metropolitan Water Act have been progressively replaced by more contemporary legislation, most recently the Water Supply Act, the Distributor-Retailer Act and the City of Brisbane Act. The Metropolitan Water Act is now redundant and is repealed.

Chapter 4 Minor and consequential amendments

Clause 101 provides that Schedule 1 amends the Acts it mentions.

Schedule 1 Minor and consequential amendments

The schedule makes a number of minor and consequential amendments to the Acts stated as a result of the Bill.