

Mineral, Water and Other Legislation Amendment Bill 2018

Explanatory Notes

FOR

Amendments during consideration in detail to be moved by the Honourable Dr Anthony Lynham MP

Title of the Bill

The short title of the Bill is the Mineral, Water and Other Legislation Amendment Bill 2018 (the Bill).

Objectives of the Amendments

The objectives of the amendments are to:

- implement the fourth recommendation of the State Development, Natural Resources and Agricultural Industry Development Committee report on the Bill (Report No. 4, 56th Parliament);
- make minor corrections to the drafting in the Bill; and
- clarify amendments that are already proposed in the Bill.

Achievement of the Objectives

The objectives of the amendments are achieved by:

- removing section 91C proposed to be inserted into the *Mineral and Energy Resources (Common Provisions) Act 2014* by clause 46 of the Bill, and section 433C proposed to be inserted into the *Water Act 2000* by clause 266;
- correcting minor drafting and cross-referencing errors; and
- adding a transitional provision to clarify how clause 242 of the Bill is to be implemented.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving the objectives of the amendments. Amendment of the Bill is required.

Estimated Cost for Government Implementation

There is no additional cost to government to implement the amendments during consideration in detail.

Consistency with Fundamental Legislative Principles

The amendments were drafted with regard to fundamental legislative principles.

These amendments during consideration in detail do not themselves breach any fundamental legislative principles, nor do they amend provisions of the Bill that have been identified as breaching fundamental legislative principles.

Consultation

The amendments to omit section 91C (proposed to be inserted into the *Mineral and Energy Resources (Common Provisions) Act 2014* by clause 46 of the Bill), and section 433C (proposed to be inserted into the *Water Act 2000* by clause 266), implement recommendation 4 from the State Development, Natural Resources and Agricultural Industry Development Committee Report on the Bill. Stakeholders provided input to the Committee through written submissions and the public hearing on the Bill.

The remaining amendments largely change provisions in the Bill that have already been the subject of broad stakeholder consultation. They do not alter the overarching policy intent of the Bill, meaning additional consultation was not warranted.

NOTES ON PROVISIONS

Clause 1 omits section 91A(3)(e) as inserted by clause 46 of the Bill. The amendment is required as a consequence of the omission of section 91C by clause 2.

Clause 2 omits section 91C as inserted by clause 46 of the Bill. The amendment implements the government response to the State Development, Natural Resources and Agricultural Industry Development Committee's fourth recommendation, which was that section 91C be removed. This will enable parties to be legally represented without the need to obtain the agreement of the other party or the permission of the arbitrator.

Clause 3 amends clause 67 of the Bill. Clause 67 inserts the definition of 'negotiation and preparation costs' into the *Mineral and Energy Resources (Common Provisions) Act 2014* Schedule 2 Dictionary. This definition erroneously referred to the registrar of the Land Court. This amendment removes the reference to the registrar.

Clause 4 amends clause 266 of the Bill to remove new section 433A(3)(e) of the Bill. The amendment is required as a consequence of the omission of section 433C by clause 5.

Clause 5 amends clause 266 of the Bill to delete new section 433C of the Bill. Removing section 433C implements the government response to the State Development, Natural Resources and Agricultural Industry Development Committee's fourth recommendation. This will enable parties to be legally represented without the need to obtain the agreement of the other party or the permission of the arbitrator.

Clause 6 amends clause 280 to insert a new transitional provision into the Bill to allow water plans to be progressively amended to state cultural outcomes when the Minister makes a new water plan or replaces one or more existing water plans. This new transitional provision supports clause 242 which amends section 43(1)(b) of the *Water Act 2000* (Contents of a water plan) to provide that a water plan must state cultural outcomes in addition to economic, social and environmental outcomes that are already stated in a water plan.

There are a number of water plans that do not currently state cultural outcomes in this manner, that is, separate to economic, social and environmental outcomes. Rather, cultural outcomes are already embedded within existing social, economic or environmental outcomes stated in the water plan. Because this amendment states that a water plan **must** state cultural outcomes in this manner, it will mean that a number of water plans will become inconsistent with the Water Act upon commencement of this proposed amendment.

The proposed amendment to section 43 was not intended to be retrospective such that all water plans need to be immediately amended. The intention was that implementation of this change would occur when the Minister prepared a new water plan or replaced one or more existing water plans, ensuring that adequate consultation was undertaken as part of identifying cultural outcomes for a plan area.

Furthermore, there are other water plans currently undergoing targeted amendment under already published Statement of Proposals that do not include the issue of cultural outcomes in their scope. These include the Burdekin Basin and Moreton water plans. This means that these plans, while under current amendment, are not proposing any amendments to their stated water plan outcomes. Their amendment has been triggered under the unamended Water Act.

This amendment will ensure that existing plans or plans undergoing amendment do not become inconsistent with the Water Act upon commencement of the proposed changes to section 43 of the *Water Act 2000*.

Clause 7 amends Schedule 1 of the Bill, which makes a number of minor and consequential amendments to the *Water Act 2000*. Clause 17 omits provisions 6 and 7 of Schedule 1 which make amendments to section 814 of the *Water Act 2000* to correct cross referencing errors.

The *Vegetation Management and Other Legislation Amendment Act 2018* made a series of more substantive changes to section 814 of the *Water Act 2000*, including amendments to correct cross referencing errors that were included in the Bill.

As a result, the changes included in the Bill to amend section 814 are no longer required.

