
Water Reform and Other Legislation Amendment Bill 2014

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Mark McArdle MP, Minister for Energy and Water Supply

Objectives of the Amendments

South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 and Sustainable Planning Act 2009

The amendments to the *Water Reform and Other Legislation Amendment Bill 2014* (the Bill) include amendments to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act) which are required to align the infrastructure provisions for the streamlined water approval process (known as the utility model) for distributor-retailers with recent amendments which were made to the infrastructure provisions for local governments in the *Sustainable Planning Act 2009* (or SPA). An amendment to SPA is also required to facilitate these changes.

Achievement of the Objectives

The policy objectives are achieved through the amendments to the Bill that:

- Clarify the requirements for infrastructure charges notices;
- Align distributor-retailer infrastructure provisions with local government refinements under SPA which address inaccuracies relating to technical matters such as the methodology for calculation of infrastructure charges;
- Provide for an infrastructure charges notice to be issued in respect of a water connection aspect of an existing development approval with an infrastructure contribution condition. Namely where a change request for the existing development approval is made to a local government.
- Clarify the intended application of some sections of the SEQ Water Act.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving the intended objectives of the amendments.

Estimated Cost for Government Implementation

The amendments do not impose new regulatory requirements or costs for the government.

Consistency with Fundamental Legislative Principles

The amendments do not breach any fundamental legislative principles.

Consultation

The amendments are primarily made to clarify minor sections within the legislative framework that the distributor-retailers operate within when assessing water and sewerage connection applications. These changes ensure consistency with amendments which were made recently to SPA for local governments, to ensure the alignment of the local government and distributor-retailer infrastructure frameworks.

The streamlined water approval process for water and sewerage connections commenced on 1 July 2014, after extensive consultation over a period of three years with stakeholders including local government, industry and the distributor-retailers.

The Department of State Development, Infrastructure and Planning conducted extensive consultation over a period of 18 months in relation to the new infrastructure planning and charging framework including for distributor-retailers. This occurred with local government, distributor-retailers and the development industry. The changes to SPA were identified during the early implementation phase of the new framework.

NOTES ON PROVISIONS

Amendment 1 relates to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

Amendment 1 After clause 51

Amendment 1 inserts new part 6A (Amendment of *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act)), clauses 51A to 51H into the Bill.

Clause 51A Act amended

Clause 51A provides that part 6A amends the SEQ Water Act.

Clause 51B Amendment of section 99BRAK (Power to amend)

Clause 51B amends section 99BRAK of the SEQ Water Act to enable a distributor-retailer to give an infrastructure charges notice related to an amended water approval, even if an infrastructure charges notice has not been previously given.

Clause 51C Amendment of section 99BRCI (When charge may be levied and recovered)

Clause 51C amends section 99BRCI(3) of the SEQ Water Act so that an infrastructure charges notice ‘must’ be given by a distributor-retailer; rather than ‘may’ be given within the required period of 10 business days.

Clause 51D Amendment of section 99BRCJ (Limitation of levied charge)

Clause 51D amends section 99BRCJ of the SEQ Water Act to insert a new sub-section 3A to clarify when additional demand on trunk infrastructure can be included in the calculation of infrastructure charges.

Clause 51E Amendment of section 99BRCK (Requirements for infrastructure charges notice)

Clause 51E amends section 99BRCK(1)(f) of the SEQ Water Act and replaces the words “details of” with “information about” an offset or refund in an infrastructure charges notice. The amendment recognises that while infrastructure costs are not always accurate at the time of development approval, an applicant must still be provided with the best available and necessary information about an offset or refund to enable decision making, for example about negotiations or lodgement of an appeal.

Clause 51F Amendment of section 99BRCR (Necessary infrastructure condition for other infrastructure)

Clause 51F amends section 99BRCR(3) of the SEQ Water Act to make changes to the infrastructure conditioning power for trunk infrastructure which is not identified within a Water Netserv Plan. The infrastructure conditions for trunk infrastructure are not limited to the connection area or future connection area. This amendment ensures consistency between section 99BRCR and section 99BRCQ of the SEQ Water Act.

Clause 51G Amendment of section 99BRCT (Offset or refund requirements)

Clause 51G amends section 99BRCT(3)(b) of the SEQ Water Act to remove an inaccuracy in how a refund is determined. The value of the infrastructure provided by the applicant must be offset against the charge. The distributor-retailer must refund the applicant for the value of infrastructure that is greater than the infrastructure charge.

Clause 51H Amendment of section 99BRCW (Restriction if connection completely in connection area and future connection area)

Clause 51H amends section 99BRCW(2)(a) of the SEQ Water Act to correct an inaccuracy in how the value of an additional payment must be determined for infrastructure provided earlier than planned in the Water Netserv Plan. The additional cost is limited to the additional

costs incurred by the distributor-retailer as a result of providing the trunk infrastructure earlier than anticipated.

Amendment 2 relates to the *Sustainable Planning Act 2009*

Amendment 2 After clause 51

Amendment 2 inserts new part 6B (Amendment of *Sustainable Planning Act 2009* (SPA)), clauses 51I and 51J into the Bill.

Clause 51I Act amended

Clause 51I provides that part 6B amends SPA.

Clause 51J Amendment of section 976B (Existing development approvals)

Clause 51J amends section 976B of SPA so that a distributor-retailer can give an infrastructure charges notice, in respect of the water connection aspect of an existing development approval which has an infrastructure contribution condition. Namely, where a request is made to a local government for an amendment or extension of the development approval.

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