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5 April 2013

The Chair  
 Agriculture, Resource and Environment Committee  
 Parliament House  
**BRISBANE QLD 4000**

To Whom it May Concern,

### **SUNWATER'S SUBMISSION ON THE LAND, WATER AND OTHER LEGISLATION AMENDMENT BILL 2013**

With reference to the Agriculture, Resources and Environment Committee's request for submissions on the *Land, Water and Other Legislation Bill 2013* (the Amendment), please accept this submission from SunWater Limited.

#### **Grounds for Submission**

This submission is made on the grounds that SunWater is a Water Service Provider and Resource Operation Licence (ROL) holder for 21 water supply schemes and Interim Resource Operations Licence (IROL) holder for two water supply schemes throughout Queensland.

SunWater's comments relate to the proposed amendments to the *Water Act 2000 (Qld)*.

#### **CONTENTS OF SUNWATER'S SUBMISSION**

#### **Clause 234 Replacement of ss 107A and 108 - Distribution Operations Licence can be held by an entity nominated by the water infrastructure owner**

SunWater highlights to the committee that under 122A of the *Water Act 2000 (Qld)* the chief executive (of the Department of Natural Resources and Mines) has previously approved standard supply contracts governing the relationships between a resource operations licence holder, distributions operations licence holder and a customer (water allocation holder). Examples of such contracts are the *Standard Supply Contract Pioneer River Water Supply Scheme (No.1)* and the *Standard Supply Contract Burdekin Haughton Water Supply Scheme (No.1)*.

SunWater believe that it is paramount that where a water infrastructure owner intends to transfer the responsibilities of the Distribution Operations Licence to an entity, that the provisions of proposed section 107C (2) of the *Water Act* need to be specific in recognising any contractual obligations that may already be in place between a Resource Operations Licence Holder and a Customer where there is a dependency on a Distribution Operations Licence Holder to fulfil these obligations.

In addition, in order for the both SunWater and the new entity to fully comply with a Resource Operations Plan's quarterly and annual reporting requirements, the entity must also ensure that it has an ability to transfer data which is consistent with the departmental *Water Monitoring Data Reporting Standards* (the Standard).

SunWater therefore would like to propose some additional wording for Clause 234 s 107C (2). SunWater's proposed text is shown in ***bold italics*** below:

(2) *The chief executive may approve the nominee to be the holder of the licence only if—*

(a) *the chief executive is satisfied the nominee—*

- (i) *is a suitable entity to hold the licence; and*
- (ii) *can carry out the activities authorised, or to be authorised, under the licence; and*
- (iii) *can comply with the conditions, or proposed conditions, of the licence ***including the ability to comply with relevant departmental standards***; and*
- (iv) ****is capable of performing the functions of the Distributions Operations Licence Holder to facilitate the water allocation holder and Resource Operations Licence holder obligations resulting from any water supply contracts that are in place between the Resource Operations Licence holder and the allocation holder in accordance with section 121 of the Water Act.****

#### **Clause 228 Amendment of s 20 - Removing the requirement for licences to interfere for watercourse diversions associated with resource activities**

SunWater brings to the committee's attention the following provisions of the *Water Act 2000 (Qld)* relating to the current process for granting water licences:

##### ***Section 209 Applications that may be decided without public notice***

(1) *If the granting of the application would be inconsistent with a water resource plan, a resource operations plan or a wild river declaration, the chief executive must refuse the application without notice of the application being published.*

and

##### ***Section 210 Criteria for deciding application for water licence***

(c) *any water resource plan, resource operations plan and wild river declaration that may apply to the licence;*

As the committee may be aware, SunWater is responsible, in many instances for supplying water via 'watercourses' under the 21 resource operations licences granted through the various water resource plans and subsequent resource operations plans across the state.

The proposed wording appears to assume that the impacts of interference are only applicable to the environment. This means that, if adopted, the potential for a watercourse diversion to impact upon allocation and use of water, especially within SunWater Water Supply Schemes, may no longer be considered as part of the approval process. SunWater therefore propose additional wording to the current wording contained within Clause 228 s 20 (6B). SunWater's proposed text is shown in ***bold italics*** below:

A person may interfere with water if-

- (a) the interference is a diversion of a watercourse and is associated with a resource activity; and
- (b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and
- (c) the environmental authority was granted with a condition about the diversion of the watercourse; and
- (d) the watercourse to be diverted is not within the area covered by an Interim Resource Operations Licence, Resource Operations Licence or Distributions Operations Licence area.**

### **Dealing with surrendered or forfeited interim water allocations**

SunWater notes the reasons for the proposed amendment as outlined in the *Summary of Land, Water and Other Legislation Amendment Bill 2013 by Act* and accepts the need to provide flexibility for the chief executive in dealing with surrendered and forfeited Interim Water Allocations.

However, SunWater contends that such provisions should not apply to water allocations, created through a statutory process under a Water Resource Plan (WRP) and subsequent Resource Operations Plan (ROP), as these allocations are permanent in nature and recognised in law as property rights.

SunWater is available to discuss any aspect of this submission with the department. Queries should be directed to Gordon Delaney, Manager Water Planning & Environment on (07) 3120 0143.

Yours Sincerely,



**Tom Vanderbyl**  
**General Manager – People Performance & Safety**