Economic Development and Other Legislation Amendment Bill 2024

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Economic Development and Other Legislation Amendment Bill 2024





To: Committee Secretary

Cost of Living and Economics Committee

Sent: colec@parliament.qld.gov.au (via online submission)

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1. Introduction

- 1.1. Urban Utilities welcomes the opportunity to provide feedback on the new provisions and amendments to the *Economic Development and Other Legislation Amendment Bill 2024* (the Bill). Urban Utilities appreciates the challenges facing South East Queensland to enable more housing and jobs to address projected population growth whilst also addressing community concern regarding cost-of-living pressures.
- 1.2. Urban Utilities is a statutory authority and, as Central South-East Queensland's Distributor-Retailer Authority, is responsible for drinking water distribution and wastewater services across the Brisbane, Ipswich, Scenic Rim, Somerset, and Lockyer Valley local government areas in South East Queensland.
- 1.3. As key asset owners and contributors to infrastructure underpinning South East Queensland's growing population, Urban Utilities is committed to enabling sustainable growth and the improvement of housing supply and affordability. While Urban Utilities supports enabling growth in Priority Development Areas (PDA), the expansion of Economic Development Queensland's (EDQ) powers raises several concerns regarding the sustainable provision of water and wastewater services, as well as the implications of this on the development sector, the greater community, and customer bills.
- 1.4. Urban Utilities supports the intention of the amendments to the Bill, but our submission highlights issues in the Bill where greater clarity is required to ensure distributor-retailers can continue to effectively support our community and the development sector when planning and delivering future water and wastewater networks to service PDAs.
- 1.5. Our concerns focus on the following areas:
 - The need for further clarity on ensuring the quality and safety of water and wastewater assets that are built by others and connected to public water and wastewater networks.
 - The need for further clarity to ensure sustainable and transparent funding for the delivery of trunk infrastructure, in a way that recognises investment for existing and planned water and wastewater networks, which has cost implications for Distributer-Retailers, customers, and the broader community.

2. Ensuring the safety and quality of water and wastewater assets

2.1. Concern (Power to require connections):

2.1.1. Within a PDA, both EDQ and Urban Utilities have jurisdiction to impose conditions on developers regarding water and wastewater networks. EDQ can do this via conditions of a PDA development approval, and Urban Utilities via a water approval under the provisions of the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 (DR Act).

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- 2.1.2.If the conditions of the PDA development approval and water approval are inconsistent, a developer is required to comply with both or may need to amend one or both approvals. The Bill proposes that water approval requirements of the DR Act may be over-ridden at the direction of EDQ. This means that developers, Urban Utilities, and other distributor-retailers, face uncertainty on how the standards and quality of new assets will be ensured, and how to effectively manage the safety and water quality of operational networks within PDA areas.
- 2.1.3.Outside PDAs a range of standards are required by distributor-retailers, including the SEQ Water Supply and Sewerage Design and Construction Code (the Code). Although factsheets issued by EDQ to explain the Bill indicate that the Code will be specified by EDQ, it remains unclear how compliance will be ensured. Compliance with standards needs to be ensured for all developments, including self-assessable/as-of-right development, impacting water networks because even a single sub-standard connection can create health risks.
- 2.1.4. Further clarity is required on the proposed process to manage final inspections and certifications to guarantee compliance with the Code and other standards subject to water legislation. Without such clarity the Bill potentially increases uncertainty on how important safety assurances for the greater community and certainty for distributor-retailers will be ensured.

2.2. Request (Power to require connections):

- 2.2.1. Further clarity is required in the Bill to outline how regulations or guidelines will be used to ensure that all connections to public networks are safe, do not conflict with water legislation, and comply with the Code and other relevant standards.
- 2.2.2.Further clarity is also required in the Bill to address how EDQ may assume liability and responsibility for any approvals that do not meet accepted standards related to design, safety, and operational matters. Urban Utilities suggests that transparency and documentation should be equivalent to the legislative obligations already required of water and wastewater network owners.
- 2.2.3.Urban Utilities suggests that a transparent formal assurance process will provide relevant industry practitioners with opportunities for meaningful input to any regulations or guidance material. Urban Utilities is willing to support the development of water regulations or guidelines in partnership with EDQ, councils, and other distributor-retailers.

2.3. Concern (Power to override water approval):

- 2.3.1.Under the proposed section 128, a direction by EDQ to a local government or government entity (not being Urban Utilities) to provide infrastructure will override the water approval requirements of the DR Act. Water approval requirements enable Urban Utilities to regulate connections to its water and wastewater networks, including in terms of compliance with the Code.
- 2.3.2. While EDQ conditions must comply with the Code, it remains unclear how compliance will be ensured, and the construction of sub-standard infrastructure avoided.
- 2.3.3. Further, the DR Act provides that, in relation to a water approval given for a connection outside of the connection area stated in Urban Utilities' Netserv Plan, the connection area must be updated to include the new connection. The Bill does not contemplate any equivalent process where a connection is enabled without a water approval or allow for any network planning implications.

2.4. Request (Power to override water approval):

- 2.4.1.Amend the Bill to clarify that, despite the new proposed section 128(7) to (9), a distributor-retailer:
 - a) otherwise retains the power to refuse a connection either:



- under section 99BRAG of the SEQ Water Act, for example because the connection does not comply with Urban Utilities' connection criteria, the SEQ design and construction code, or
- (ii) any other matter that Urban Utilities considers relevant; or under section 99BRAH of the SEQ Water Act because the connection is not technically feasible or would unreasonably interfere with the connection or supply of services to other customers; and
- (b) should receive notice under section 128(4) of the ED Act of a proposed direction to a local government or government entity that would, if followed, lead to a connection without a water approval under section 128(8) of the ED Act. In this instance, the distributor-retailer should be given the opportunity to raise concerns or issues in addition to the entity that is given the direction.

2.4.2.Amend the Bill:

- a) To require EDQ to consult with a distributor-retailer before issuing a relevant direction regarding network planning implications which may result from the giving of the direction.
- b) To clarify the statutory process updating connection areas where a connection is enabled without a water approval.

3. Direction powers - Ensuring legal transfer of assets and funding.

3.1. Concern (Direction to maintain infrastructure):

- 3.1.1.Under the proposed section 128, EDQ may direct a distributor-retailer, government entity or local government to provide or maintain infrastructure. Urban Utilities accepts that assets required for operational water and wastewater networks are within the remit of Urban Utilities' operations (except for private laterals and plumbing). However, the Bill appears to contemplate that a direction may be given to maintain infrastructure constructed by others, without addressing asset ownership or, if ownership is not transferred, the nature of the maintenance arrangement, including in terms of liabilities and funding.
- 3.1.2. Furthermore, if it is intended that asset ownership does transfer, Urban Utilities needs to be able to ensure that such infrastructure is fit-for-purpose over its entire lifecycle. The Bill is unclear as to what recourse Urban Utilities has or may have in relation to defective or sub-standard water or wastewater infrastructure, or how future rectification of these issues is funded.
- 3.1.3. There is a risk of Urban Utilities becoming responsible for the costs to rectify sub-standard water or wastewater infrastructure at the time of the direction or during the extended lifecycle of the infrastructure.

3.2. Request (Direction to maintain infrastructure):

3.2.1.Clarify in the Bill that any EDQ direction to a distributor-retailer to maintain infrastructure under section 128 of the Bill is accompanied by an associated direction under section 127 for Urban Utilities to accept both a transfer of asset ownership and funds from the Economic Development Fund for rectifying defects and otherwise maintaining the infrastructure.

3.3. Concern (Direction to provide infrastructure):

3.3.1. The proposed section 128 also enables EDQ to give a written direction to entities (including distributor-retailers) to provide infrastructure. PDAs are often too small to raise infrastructure charges in a timely



fashion to adequately fund the construction of infrastructure that is sized for both current and future demand in the PDA. This creates the financial risk that entities such as Urban Utilities will be directed to provide (construct) trunk infrastructure that unfairly shifts costs to service current and future PDA demand to our broader customer base.

- 3.3.2.For example, where EDQ's acquisition powers are combined with EDQ's direction powers under the Bill, it would be possible for EDQ to:
 - a) acquire land;
 - b) direct that Urban Utilities accept the transfer of the land; and
 - c) direct that Urban Utilities provide water or wastewater infrastructure in or relating to, a stated PDA, or on or related to PDA-associated land.
- 3.3.3.This raises a significant impact on Urban Utilities investment and programmes, where additional PDA trunk infrastructure is required within the connection area or future connection area but is not in Urban Utilities Water Netserv Plan and has further cost implications for customers, and the broader community.
- 3.3.4. The Bill remains unclear as to how funding is provided to distributor-retailers when directed to provide infrastructure. This creates a challenge both in and beyond PDA boundaries, for both existing and planned growth infrastructure.

3.4. Request (Direction to provide infrastructure):

3.4.1.Clarify in the Bill that any EDQ direction to a distributor-retailer to accept land under section 127 of the ED Act, or provide infrastructure under section 128 of the Bill, is accompanied by an associated direction under section 127 for Urban Utilities to accept funds from the Economic Development Fund for providing the infrastructure.

4. Consultation on and PDA Declaration Place Renewal Areas

4.1. Concern (Notification of Declaration of PDAs and Place Renewal Areas):

4.1.1.Distributor-retailers are not required to be consulted when a PDA or place renewal area is declared, although EDQ must consult the local government. Urban Utilities requests clarity on how consultation can be applied to help provide better infrastructure outcomes for communities and customers.

4.2. Request (Notification of Declaration of PDAs and Place Renewal Areas):

4.2.1.Clarify in the Bill that adequate notice must be provided to distributor-retailers of declaration of areas which they will be obliged to service or respond to directions issued by EDQ.

5. Financial sustainability

5.1. Concern (Cost recovery for growth infrastructure):

- 5.1.1. Within a PDA, Urban Utilities cannot adopt or levy charges because EDQ has exclusive jurisdiction with respect to infrastructure charges for all networks in the PDA. In PDAs, infrastructure charges are levied by EDQ often at similar rates as those adopted in all other areas, but only a portion of the ICs collected are transferred to distributor-detailers.
- 5.1.2. This is because EDQ planning mechanisms contemplate only new trunk infrastructure servicing a PDA and overlook the substantial value of capacity in existing trunk infrastructure that has been built in



- anticipation of growth (e.g., capacity of existing pumps, pipes, and treatment facilities installed to service projected growth). Consideration needs to be given to the impact on existing network assets that will require augmentation to service the additional demand in PDAs.
- 5.1.3.Outside PDAs, the Minister's Guidelines and Rules (MGR) adopt an Average Cost Apportionment approach to contribute to recovery of these costs. Ignoring this element of the MGR within PDAs results in the costs of only a subset of growth trunk being recovered. The additional costs required to support growth are instead subsidised by existing customers, which leads to upward pressure on utility bills and distorts the true cost required to support investment within PDAs.

5.2. Request (Cost recovery for growth trunk):

4.2.1 Clarify in the Bill mechanisms through which funding could be transferred to distributer-retailers for the augmentation of downstream and for capacity previously invested in the system to support growth.

6. Matters of support - Legal transfer of land and funding

6.1. Urban Utilities supports the proposed change to subsection 127(1) of the Act to reference distributor-retailers expressly as entities that can accept land and funding transfers from EDQ.

7. Conclusion

- 7.1. This submission supports the intention of the amendments to the Bill but highlights important areas in the proposed provisions where greater clarity is required in the Bill for distributor-retailers, the community, and the development sector.
- 7.2. Urban Utilities is concerned that the Bill, in its current form, does not provide sufficient clarity for distributer-retailers to appropriately plan, fund, and provide future water and wastewater networks to service PDAs, while ensuring the safety of the operational network and standard of networks built by others.
- 7.3. Our request for amendments to the Bill remains focused on addressing our concerns in the following areas:
 - a) The need for further clarity to ensure the quality and safety of water and wastewater assets connected to public water and wastewater networks.
 - b) The need for further clarity to ensure sustainable and transparent funding for the delivery of trunk infrastructure, in a way that recognises investment for existing and planned water and wastewater networks, and cost implications for distributer-retailers, customers, and the broader community.

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7.4. Urban Utilities welcomes the opportunity to be heard at a public hearing and continue to be involved in the development of legislation to enable growth while safeguarding public health, safety, and the sustainability of water and wastewater networks in our service area.

Sincerely,



Ruth Coulson

Acting Chief Executive Officer

Urban Utilities

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