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The Research Director
Environment, Agriculture, Resources and Energy Committee
Parliament House
George Street
BRISBANE QLD 4000
Emailed to: earec@parliament.qld.gov.au;

Dear Sir/ Madam

Submission in relation to the South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Bill 2011

On behalf of the Gold Coast City Council, the following submission is made in relation to the above Bill.

Gold Coast City Council has resolved to withdraw from its water retailer/distributor (Allconnex Water) and re-establish its own water services business. The draft Bill facilitates this decision and is therefore, in general terms, supported by Council. It is further acknowledged that Council officers were afforded the opportunity to be consulted on the proposed contents of the Bill. There are however a number of matters which remain of concern to Council which are outlined below.

One issue of particular concern relates to the potential timing of the passage of the legislation. GCCC is concerned that the consideration of this Bill could be significantly delayed as the Committee is required to report to the Parliament by April 2012, just three months prior to the proposed disestablishment date.

The potential delay poses a serious and unacceptable risk to the Councils and Allconnex Water. Achievement of the proposed disestablishment of Allconnex Water/re-establishment of Council water businesses on 1 July 2012 requires considerable expenditure and has a significant impact on employees. It will require the Councils and Allconnex Water to make decisions and commit public funds to disestablishment and re-establishment activities without the certainty of legislation having been passed.

It is respectfully requested by GCCC that the Committee give urgent consideration to the Bill with a view to expediting its report to Parliament to facilitate a timely passage of the legislation.

The grounds for this representation are:

- The significant risk to the Councils associated with the uncertainty created by the proposed timelines for the Committee process.
- The potential risk to the orderly provision of an essential service created by the passage of the legislation at a date so close to the proposed implementation date.

- The need to provide certainty for employees of Allconnex Water.

Withdrawal Costs (Division 4, Subdivision 2)

Gold Coast City Council has maintained a position that the costs incurred as a consequence of deciding to 'opt out' of Allconnex Water and re-establish its own water business should be met by the State government and not the ratepayers of the Gold Coast. This belief is based upon the premise that the State government, as the originator of the water reform process in South East Queensland, should bear the financial costs of the reforms effectively being reversed. This position has been formally put to the Premier and the Minister for Energy and Water Utilities and our opposition to the provisions of Sections 92BR, 92BS, and 92BT insofar as they require Gold Coast to be responsible for its withdrawal costs and the withdrawal costs of Allconnex Water, Logan and Redland City Councils is again formally made.

General Provisions Relating to Re-transfer

While the Bill provides a dispute mechanism in the event of the parties failing to reach an agreement in relation to the determination of withdrawal costs, there is no such mechanism to resolve a dispute in relation to the apportionment of assets and liabilities. Presumably, failure to reach an agreement would lead to the apportionment of the assets or liabilities in accordance with the participation rights of the Councils (Section 92BI (3)). This could lead to sub optimal outcomes in the circumstances of assets and liabilities which were not transferred to Allconnex from a withdrawn Council. As an example, infrastructure loans (loans taken out to finance the construction of infrastructure assets) should be apportioned to the asset they are aligned to, which, under the terms of the Bill, being a geographically linked asset would be transferred to the Council in which local government area the asset is located. To fail to apportion a loan established to fund the building of the asset to that Council would be inequitable, as the Council would receive the benefit of the asset without a guarantee of the full amount of any attached liability being transferred to that Council. To avoid the potential for this outcome, it is suggested that either of two amendment could be adopted:

- i) The dispute settling provisions be extended to also cover disputes in relation to the re-transfer scheme, or
- ii) The provisions of Section 92BI be revised to reflect a position that assets other than those originally transferred from a withdrawn Council be apportioned, where able, to the Council to which the asset or liability can be reasonably linked, and if the asset or liability cannot be reasonably so linked then the withdrawn Councils are Allconnex's proportional joint successor for the asset or liability.

I note the Minister's power under Section 92BI (4) to change the successor. The effect of the above proposals could be achieved by the adoption of a Regulation which clarifies the circumstances in which the Minister would exercise the powers under this provision.

Any questions in relation to the above submission may be directed to the undersigned on 07 5581 7165.

Yours sincerely



Mark Harvey
DIRECTOR WATER REFORM
For the Chief Executive Officer