

0 8 8



Office of the Chief Executive Officer
Level 8, West Tower,
Brisbane Transit Centre
171 Roma Street
Brisbane QLD 4000
GPO Box 2765
Brisbane QLD 4001

9 November 2012

The Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane Qld 4000

PER FACSIMILE: 07 3406 7500

Dear Sir/Madam

Queensland Urban Utilities Submission on the South East Queensland Water (Restructuring) and Other Legislation Amendment Bill 2012

Thank you for the opportunity to provide a submission on the *South East Queensland Water (Restructuring) and Other Legislation Amendment Bill 2012* ("the Bill").

As you will be aware, the Central SEQ Distributor-Retailer Authority, trading as Queensland Urban Utilities (QUU), is a statutory authority established as a "Distributor-Retailer" pursuant to the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009* (Qld) ("DRR Act").

As such, QUU is responsible for the provision of water and wastewater services in the geographic area of its five participating local governments which are:

- Brisbane City Council
- Ipswich City Council
- Lockyer Valley Regional Council
- Scenic Rim Regional Council and
- Somerset Regional Council

QUU supports the Queensland Government's objectives in the Bill to:

- implement structural reforms to the South East Queensland Bulk water supply industry by creating a single new bulk water service provider authority
- create a direct relationship between the new bulk water supply entity and QUU; and
- simplification of the relevant bulk planning and regulatory framework,

with reductions in the cost of bulk water in South East Queensland being a viable and targeted outcome.

Cont'd.....

ABN 86 673 835 011

Removal of five-year price path and price mitigation plan requirements

Significantly for QUU, the Bill removes the requirements currently imposed upon QUU's participating local governments with respect to adopting price mitigation plans and final price paths.

QUU's interpretation of the amendments proposed by the Bill, is that QUU's participating local governments **will not** be required to:

1. adopt a price mitigation plan about how the participating local government proposes to mitigate the impact on QUU's customers for charges for water services or wastewater services ("retail charges") after the capped prices period ends (i.e. current 30 June 2013); and
2. by 1 March 2013, adopt a written final price path for retail charges relating to the period from 1 July 2013 to 30 June 2018.

With the removal of the accountability of participating local governments for setting QUU's retail charges in QUU's local geographic area on enactment of the Bill, QUU assumes that it will maintain responsibility for determining QUU's retail charges in accordance with the strategic requirements of its Corporate Plan, its Participation Agreement and the provisions of the DRR Act.

The Explanatory Notes state that "Costs or prices may be decided for any time period (whole or parts of financial years or more than one financial)". This could impose considerable uncertainty on the distributor-retailers within the industry and also create significant confusion for customers in the region if prices are regularly changing.

Further to this, there does not appear to be any requirement on when the bulk water pricing announcements are to be made for any financial year. In order for the distributor-retailers to comply with section 99ATA of the DRR Act, we would need adequate notice of the bulk water prices.

Any regulatory framework that incorporates the new bulk water entity should ensure that it is consistent with the treatment of each regulated entity within the overall supply chain. Any variations between their treatments would lead to inconsistencies between the entities and potentially lead to confusion within the industry and the customers.

Future Consultation

QUU welcomes and appreciates its current involvement in consultation discussions with the Department of Energy and Water Supply concerning:

- the provisions of the proposed code (which the Bill identifies, relevantly for QUU, demand forecasting, water ordering, communications, operating protocols, infrastructure planning and demand management; and emergency responses); and
- the terms and conditions of the new bulk water supply agreement.

In principle, QUU has no issues with the new "Division 2 Bulk Water Supply Agreements" to be inserted into the *Water Act 2000 (Qld)*. However, QUU's support is largely dependent on the terms and conditions that are mandatory and discretionary.

Furthermore, QUU supports development of a bulk water supply code, provided that it offers a "red tape reduction" on existing market arrangements which are overly complex and onerous.

The Bill provides for specific obligations upon the new bulk entity prescribed in:

- regulations which are to set appropriate desired levels of service objectives relevant to water supply in South East Queensland; and
- a water security program.

QUU would welcome the opportunity to provide stakeholder consultation feedback in relation to these services and planning objectives, and the water security program as engagement will assist QUU:

- in performing its functions as a distributor-retailer effectively; and
- accommodating and being responsive to the growing demand for cost effective water and wastewater services in QUU's geographic area when developing its water Netserv plan (with objectives of the Netserv plan being the planning of infrastructure to deliver safe, reliable and secure water and wastewater services).

Section 99BJ of the DRR Act provides that QUU must have a water Netserv plan in place and approved by the Minister from 1 July 2013.

QUU's view is that bulk planning objectives and water security programs should take advice and direction from local government growth plans and Distributor-Retailers' infrastructure plans for when infrastructure upgrades and reliability requirements will be required. This direction should include measures related to both timing and capacity.

Water Restrictions

The Bill empowers QUU to impose water restrictions across its geographic service area in accordance with the criteria provided for in the *Water Supply (Safety and Reliability) Act 2008 (Qld)* ("WSSR Act"), which we understand aligns with other water service provider restriction powers which are currently in place outside the SEQ region. There are no provisions in the Bill to increase the "Authorised Persons" powers under the WSSR Act (sections 31 to 40) to allow QUU's duly appointed authorised persons to monitor compliance with any water service provider restrictions imposed by QUU or water restrictions imposed via regulator direction.

QUU's view is that there is an imbalance of powers awarded to distributor-retailers in the SEQ region. On enactment of the Bill, QUU will not possess the same rights under the WSSR Act to protect its infrastructure and undertake compliance roles relevant to water restrictions under the WSSR Act as other water service providers in Queensland (by example, where a water service provider is a local government, the local government is generally entitled to rely on broader powers under the *Local Government Act 2009* which are not available to QUU's Authorised Persons).

QUU seeks similar powers as those available to "Authorised Officers" in current Chapter 5 of the WSSR Act (i.e. the power of entry, and to protect its infrastructure, perform investigations and collect evidence including the power to issue prescribed infringement notices for legislation breaches) to enable QUU to undertake its water restrictions compliance roles effectively.

New section 353 of the Water Act makes provision for specific information, including strategies, which must be included in the water security program relating to managing the demand for water and responding to drought conditions. As these measures relate to the SEQ region, we welcome the opportunity, as provided for in the Bill, to provide consultation regarding the water security program given QUU's new role in providing for water restrictions.

QUU also seeks clarification whether QUU is required to develop its own water security program.

Transitional Provisions – Water Efficiency Managements Plans

With the dissolution of the Queensland Water Commission on enactment of the Bill:

- Water Efficiency Management Plans ("WEMP") already in place under the Water Act will not survive commencement of the Act; and
- the WSSR Act will make provision for WEMPs inclusive of the SEQ region, (where previously the WSSR Act only related to water service providers outside the SEQ region).

For continuity of business operations and practical resourcing issues, QUU seeks a transitional provision which would sustain the existing WEMPs currently in existence.

Bulk Water Prices

The new section 360W of the *Water Act 2000 (Qld)* allows the Minister to decide the price of bulk water supply. QUU would like to ensure that the giving of this pricing power (and the discretionary right to seek advice from relevant parties) for supply of bulk water services to the Minister does not lead to reduced consultation between the State government and other industry stakeholders such as QUU.

Other

QUU does however have some concern over proposed Section 360L of the Water Act 2000 (Qld), which establishes the liability for bulk water parties. In principle, QUU has no issue with the concept of limiting liability for consequential loss and agrees that there are sound reasons for doing so.

It is, and has however, been of concern to QUU, that as the entity with direct third party customer interface, QUU risks no protection in the event that QUU is sued for consequential loss by a third party (by example relating to water quality or relating to supply issues caused or related to a bulk supply authority) for which QUU, as the distributor-retailer has no control.

Accordingly, QUU would appreciate the State Government exploring this issue in further detail with all relevant industry stakeholders to ascertain if there are options such as a mutual liability insurance pool that could be explored for the mutual benefit of all interested parties.

We are happy to elaborate on these comments if required. Of course, QUU would welcome the opportunity to provide additional written comments or be involved in further consultation.

Should you require any further information from Queensland Urban Utilities in relation to this matter please do not hesitate to contact me on telephone 07 3027 5798.

Yours faithfully



LOUISE DUDLEY
Chief Executive Officer
Queensland Urban Utilities