



Submission to the Finance and Administration Committee

***South East Queensland Water (Restructuring)
and Other Legislation Amendments Bill 2012***

Local Government Association of Queensland Ltd

9 November 2012

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Introduction

On 1 November 2012, the South East Queensland (SEQ) Water (Restructuring) and Other Legislation Amendment Bill 2012 was referred to the Finance and Administration Committee, which is required to report to Parliament by Thursday 22 November 2012.

The LGAQ understands the primary objectives of the Bill are:

1. The rationalisation of the SEQ bulk water industry by the merger of the three bulk water entities – the Queensland Bulk Water Supply Authority (trading as Seqwater); the Queensland Bulk Water Transport Authority (trading as LinkWater); and the South East Water Grid Manager (WGM) – into a single bulk water service provider and the dissolution of the Queensland Water Commission (QWC).
2. Amendment of the Water Fluoridation Act 2008 to extend the criteria under which an exemption may be sought from the requirement that a relevant water supply be fluoridated and to clarify that an exemption may only be sought for an eligible relevant public potable water supply.

The LGAQ welcomes the opportunity to provide feedback to the Finance and Administration Committee in response to the Bill. However, the LGAQ does highlight fundamental concern in relation to the expedited process and limited consultation period associated with the Bill. The establishment of a *Partners in Government Agreement* between the State Government and the LGAQ on behalf of local government identifies that the State will –

"undertake timely, cooperative, proper and meaningful engagement on all policy, legislation, strategy and program initiatives where local government has an interest – including in the early stages of policy formulation, with where practicable minimum consultation periods of four weeks to enable the Local Government Association of Queensland to engage meaningfully with its members".

The LGAQ is disappointed in the engagement processes (or lack thereof) prior to the introduction of the Bill and the one week consultation allowance since the Bill's introduction on 1 November 2012.

Industry Context

Unlike other states, Queensland's urban water industry (water supply and sewerage services) is predominantly managed by local government and local government-owned enterprises. In SEQ, two local government owned water service providers provide service delivery for seven councils, while at present, one additional local government corporation provides services for the Fraser Coast region. Apart from bulk water services provided by the Gladstone Area Water Board, Mt Isa Water Board and Sunwater, all urban water services in regional Queensland are delivered within local government structures and service over 1.4 million people.

At the state level, the Department of Energy and Water Supply, Department of Environment and Heritage Protection, Department of Natural Resources and Mines and Queensland Health share various regulatory obligations and policy oversight of local governments' activities.

1. Amendments to the South East Queensland Water (Restructuring) Act 2007

Whilst the Association is unable to comment on the detail of the proposed amendments given the timeline in which to respond, LGAQ has long held the view that the institutional reform of SEQ's water supply arrangements by the Bligh Government resulted in a cumbersome unproven model for the harvesting, production, treatment, distribution and retailing of the region's water supplies.

On this basis, LGAQ supports the overall intent of this Bill. Further, as part of its 2012 State Election Local Government Policy Plan, the LGAQ sought "a commitment to revisit the water supply reforms introduced in South East Queensland so that consumers are relieved from a key component of the mounting cost of living in the region".

In response, the LNP stated that it is:-

"Pleased to support the LGAQ through our clear policy to revisit Labor's failed water supply reforms.

Specifically, we are committed to implementing a Four Point Water Plan to reduce the cost of living for Queenslanders:

1. Amalgamate the four bulk water entities into one entity to reduce the cost of supplying water;
2. Hand back control of water distribution and retailing to councils who previously did a far better job of managing water resources than the Bligh Government;
3. Write off non-performing water grid assets to reduce sharp price rises; and
4. Adopt a 40 year price path to repay the Bligh Government's \$7 billion water grid debt over the economic life of the assets, which will also reduce the cost of water".

Given the implementation issues associated with the proposed amendments and reflecting on the principles in the "Partners in Government Agreement" LGAQ strongly recommends that the Government pursue a genuine collaborative / partnership approach with the affected councils to ensure the aims of the Bill and any supporting regulations are successfully achieved. This would apply more specifically to areas such as water demand management, water quality, risk management, emergency management and drought management as well as infrastructure planning over the next 12 months.

2. Amendments to the Water Act 2000

Whilst not fundamentally opposed to the suggested amendments to the *Water Act 2000*, LGAQ does hold some concerns about Part 2 "Water Security Planning".

By way of context, LGAQ along with the Queensland Water Directorate (*qldwater*) have been working closely with the State Government on improving the regulatory framework for the urban water industry across Queensland (excluding SEQ). This work resulted in the signing of a Memorandum of Agreement (MOA) between the former Department of Environment and Resource Management, LGAQ and *qldwater* in mid 2010.

Subsequent to the state election in March and the machinery of government changes, the MOA was resigned by the Director General of the Department of Energy and Water Supply in October committing to a new and updated set of objectives and outcomes.

Titled the "Urban Water Services Project", one of the key priorities of the MOA is to pursue an outcomes-driven, streamlined regulation and reporting regime resulting in better decision making at a local, regional and state level.

Whilst LGAQ supports the need for water security planning reforms, LGAQ is concerned about the already bloated regulatory burden facing water service providers in Queensland. For example, some local governments are required by regulation to produce in excess of a dozen annual plans to report on their water business activities. This myriad of reporting required by various State as well as Australian Government Departments has long been a significant concern and frustration for water service providers across the state and arguably, in many instances, fails to achieve the outcomes sought in the first place.

The "water security program" amendments as proposed in the Bill would, in LGAQ's opinion, exacerbate this issue. Further, it contradicts the outcomes articulated in the "Urban Water Services Project" MOA and seems counter intuitive to the Government's mandate of red tape reduction.

LGAQ along with *qldwater* are also disappointed that both organisations were not consulted about the water security program and thus it was surprising to read this section of the Bill. Given this lack of consultation, concern has already been raised within local government about the intent of the program, especially section 342 relating to the "designation of regions".

Noting the above, LGAQ recommends that meaningful engagement occur with both LGAQ and *qldwater* as soon as possible about the intent and technical aspects of this program. At a minimum LGAQ suggests that the "water security program" amendments be reworked into an integrated, outcomes focused regulatory regime for the entire urban water service industry.

Discussions on the parameters of such a proposed regulatory framework have already been conducted by the Department of Energy and Water Supply with local government, LGAQ and *qldwater* representatives through the Urban Water Services Project previously mentioned. Continuing along these lines would maximise the combined effort of the Department and the water industry to deliver better outcomes for not only the water industry but the community at large.

3. Amendments to the Water Fluoridation Act 2008

LGAQ largely welcomes the amendments to the *Water Fluoridation Act 2008*. The proposed amendments to the exemption criteria provide flexibility for local government particularly where fluoridation is unviable or impractical to implement. That being said, LGAQ does hold some concerns about the timeliness of advice relating to current exemption applications as well as the long term costs associated with needing to reapply for exemptions.

In relation to the first matter, on 11 October LGAQ wrote to the Deputy Premier, the Hon Jeff Seeney MP expressing concern about the timeliness of advice to councils which had previously sought exemption from the State Government imposed fluoridation program – please refer to Attachment 1 for a copy of this correspondence.

In summary, in 2011 a number of councils (Barcaldine, Blackall Tambo, Murweh and Paroo) sought exemption from the fluoridation program. Despite the Water Fluoridation Act (2008) requiring all communities in Queensland, who are not exempt under the legislation to add fluoride to their water supply by December 31 2012, the councils listed above, as of last month, had still not been advised of the status of their exemption request. In the event that any of these councils are not granted an exemption, it is unlikely that they will be able to prepare and install fluoride injection systems by the legislated timeline.

In regards to cost, LGAQ's Policy Statement reads as follows:-

As oral health is a State Government responsibility and the State will receive a direct financial benefit from the fluoridation of public water supplies, the State Government should fully fund local government for the capital and recurrent costs of its introduction

When the Queensland Fluoridation Capital Assistance Program (QFCAP) was introduced in July 2008, the funding provided a subsidy towards the capital cost of the lowest life cycle cost option for fluoride projects that provided a reasonable level of service.

If LGAQ understands correctly the new exemption process only allows councils to apply for an exemption for a five year period. After the five year period has lapsed, councils will be required to re-submit for another exemption under the Act. Given the costs associated with implementation of fluoridation infrastructure LGAQ is concerned that some councils will be left to fund 100 per cent of this infrastructure once the QFCAP ceases in 2013.

LGAQ recommends that the Committee consider how the exemption renewal process will work and further, how to financially support councils who may no longer be eligible for exemptions due to population growth as an example.

It is also appropriate to recognise one case requiring an obvious and urgent review. The decision by the Minister for Health the Hon Lawrence Springborg MP to mandate fluoridation for Bundaberg Regional Council (schemes servicing Bundaberg City and immediate surrounds) has been contentious, including a number of instances of conflicting advice provided to Council. Council has raised these objections directly with Minister Springborg and the Deputy Premier and Minister for State Development, Infrastructure and Planning, the Hon Jeff Seeney MP. **Without prejudicing those discussions, it is crucial that if fluoridation is to proceed in this Council's instance, the QFCAP subsidy decision is reviewed.**

The current capital funding shortfall for Council equates to nearly \$1.4 million, which has been validated by a market/ tendering process. The Bundaberg drinking water system is relatively complex, and Bundaberg ratepayers can already expect a four percent increase to their water bills due to the annual operating costs associated with the installation of fluoridation infrastructure. From Council's perspective it is wholly unreasonable to expect that those residents should bear the cost associated with the capital funding gap.

Finally, whilst not directly referenced in this Bill, other important issues from a local government perspective relate to the need for adequate training for fluoride operators. The State Government's introduction of certified training for fluoridation operators is strongly supported, but the current up-skilling program fails to provide accredited skills with practical, hands-on experience with relevant fluoridation equipment and procedures, and beyond commissioning of the plant, there is no ongoing funding support for training.

Compounding this problem is the State Government's Fluoridation Code of Practice, which currently requires daily monitoring of fluoridation dosing stations. While a precautionary approach is commended, daily monitoring is not required when other appropriate safe guards are in place as this approach represents a significant cost impost on low-capacity councils.

As part of its state election lobbying activities, the LGAQ, along with *qldwater* made formal representations to the then LNP Opposition on ways to improve and support Queensland's urban water sector.

Key recommendations included:

- Adequate infrastructure funding to finalise fluoridation implementation (where required) to appropriate standards;
- Development of annual allocations for training places to account for staff turnover and technology changes;
- Development of the Fluoridation Operations and Maintenance funding pool for small and remote water service providers; and

- Amendments to the State Code of Practice to allow monitoring (at three daily intervals) if appropriate safe guards are already in place.

LGAQ wishes to re-emphasise these recommendations and asks that they be considered by the Committee in the development of its response to the Bill.

Thank you for consideration of LGAQ's submission in response to the South East Queensland Water (Restructuring) and Other Legislation Amendment Bill 2012. Should you have any questions or concerns in relation to the comments provided in this response, please contact Mr Greg Hoffman, General Manager, Advocacy on Ph: 3000 2245 or Email: greg_hoffman@lgaq.asn.au.

Attachment 1

11 October 2012

Hon Jeff Seeney MP
Deputy Premier and
Minister for State Development
Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Deputy Premier

State Budget announcement relating to adjustments to the Queensland Fluoridation Program

The Local Government Association of Queensland (LGAQ) writes to you to seek urgent clarification on details relating to changes to the Queensland Fluoridation Program as announced in the State Budget. More specifically, the Budget Measures state that, "the Government will achieve savings of \$14 million in 2012-13 from a decision to make voluntary, the participation of councils in the Queensland Water Fluoridation Program" and further, "funding is available to reimburse fluoride infrastructure costs for councils that opt to fluoridate water supplies".

As you would know, fluoridation of drinking water supplies has been, in some situations, a contentious issue for many communities.

Consequently, the Government's recent Budget announcement has largely been very welcomed by councils, who are now seeking details on how the exemption process and funding arrangements will work.

Whilst Departmental staff (across State Development, Infrastructure and Planning; Health; and Energy and Water Supply) have been willing to engage with both the Association and its industry partner qidwater about the announcement, they have not been able to provide any level of detail about how the exemption process or funding arrangements will work, nor any assurances about when the details will be finalised. Additionally, in speaking with councils direct, many have reported receiving conflicting information from various Government officers which has added to the confusion about what course of action councils should pursue.

LGAQ believes resolution of these processes is now becoming critical given the current requirement under the Water Fluoridation Act (2008) for all communities in Queensland, who are not exempt under the legislation, to add fluoride to their water supply by December 31, 2012.

Further, a number of councils (Barcaldine, Blackall Tambo, Murweh and Paroo) sought exemption from the Fluoridation Program in late 2011. Whilst the Association understands advice to these councils is imminent, it is disappointing that these councils have had to wait for over nine months to be formally advised of the Government's decision.

Given community expectations relating to this Budget announcement, existing legislative requirements and the Infrastructure and funding issues to be considered by councils, the Association seeks your assistance in pressing for the operational arrangements for both the exemption process and funding arrangements to be finalised and communicated to Queensland local government.



Noting that this issue spans a number of different Departmental portfolios, your ministerial colleagues, the Hon Lawrence Springborg MP, Minister for Health; the Hon David Crisafulli MP, Minister for Local Government; and the Hon Mark McArdle MP, Minister for Energy and Water Supply have also been cc'd to this letter.

The LGAQ looks forward to your response and a continuing dialogue on this matter

Yours sincerely



Greg Hallam PSM
CHIEF EXECUTIVE OFFICER

cc The Hon Lawrence Springborg MP, Minister for Health
The Hon David Crisafulli MP, Minister for Local Government
The Hon Mark McArdle MP, Minister for Energy and Water Supply