



Our ref: A3162279

Research Director
Infrastructure Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000

14 January 2016

Dear Dr Dewar,

Unitywater's Submission on Draft Planning Bills

Thank you for this opportunity to review and comment on the Government's and Private Member's Planning Bills. It is noted that both packages of Bills are very similar. Accordingly, the comments in this submission are directed jointly at both sets of Bills.

Unitywater¹ supports the objectives of both sets of Bills to simplify regulatory arrangements for new development. It is considered that that this is in the interests of more affordable development and attracting an increased level of investment in our region and the state.

The concept in both sets of Bills of the "chosen assessment manager" is supported by Unitywater. This initiative is immediately adaptable to the connections approval system and will provide benefits to developers, land development consultants, construction contractors and Unitywater as set-out in attached Table 2. Hence, it is recommended that the consequential and other legislation amendment bills be amended to include provisions to give a head of power to Distributor-Retailer Authorities to accredit appropriately qualified persons to assess and approve/refuse connections applications. See attached Table 1, item 1.

Connections to water supply and sewerage infrastructure are approved under separate legislation to legislation that regulates land use planning and development. Given water supply and sewerage services are essential for new urban development and the common objective of the planning bills, there must be parity and unambiguous delineation between the water supply and sewerage connections approval system and the land use development approval system. This is vital to enable efficient and cost-effective


¹ Northern South-East Queensland Distributor-Retailer Authority

development. In this regard Unitywater recommends that the Planning Bills be amended to include provisions to:

- a. Eliminate unnecessary complexity in the transitional provisions of the present 'Planning Act'. See attached Table 1, item 2; and
- b. Maintain parity between the 'Planning Act' and the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* in relation to infrastructure conditioning powers. See attached Table 1, item 3.

Unitywater would welcome the opportunity to further discuss the matters outlined in this submission. For any further information and/or to arrange a meeting with Unitywater please contact me on 07 5431 8256 or at ashley.lorenz@unitywater.com

Yours sincerely



Ashley Lorenz
Manager Infrastructure Planning and Development

Attachments:

Table 1 – Recommended Changes to the Planning Bills

Table 2 – Summary of Benefits of a System of Accreditation and Certification.

Submission on Planning Bills (14 January 2016)

Table 1 - Recommended Changes to the Planning Bills

Item	Reference	Issue and Discussion	Suggestion
1.	<p>Chosen Assessment Manager</p> <p><i>Cl 48(3) Planning Bill 2015</i></p> <p><i>Cl 43(3) Planning and Development (Planning for Prosperity) Bill 2015</i></p>	<p>Alternative (“third party”) assessment managers</p> <p>This is a new innovation that is strongly supported by Unitywater. It provides for a “prescribed assessment manager” (e.g. a Council) to establish a list of appropriately qualified persons to be assessment managers for development they are qualified to assess and approve/refuse connections applications. It is a form of local government initiated and controlled private certification of development.</p> <p>The mechanism is directly and simply adaptable to the water connections process in the SEQ Water Act².</p> <p>As such Unitywater considers there is a compelling case for the inclusion of an equivalent mechanism into The SEQ Water Act as part of the finalisation of the Planning Bills in order to ensure consistency is maintained and to avoid unnecessary legislative barriers being created that adversely impact on the ability of the development industry to deliver efficient and cost-effective development to the market.</p> <p>It is limited to code assessable development in the Planning Bill. Water connection related development has traditionally been dealt with as code assessable development under the planning system.</p> <p>Unitywater is currently developing an accreditation system to allow appropriately qualified persons to undertake aspects of the water connection approval process on behalf of Unitywater. However, the lack of a specific head of power to nominate and transfer the equivalent of the assessment manager function to a third party imposes limitations and unnecessary complications on this system.</p> <p>Reasons to support change</p> <ul style="list-style-type: none"> It is readily adaptable to the SEQ Water Act 	<p>It is suggested that the Planning (Consequential) and Other Legislation Amendment Bill 2015, Part 55 dealing with amendments of the SEQ Water Act be further amended to incorporate the “chosen assessment manager” concept.</p> <p>The amendments suggested to include an equivalent “chosen assessment manager” power into the SEQ Water Act are as follows:</p> <ol style="list-style-type: none"> Insert a new section (e.g. Who may be a chosen water assessor) after s99BRAf that is compatible with the Government and Private Member’s Bills (Cl 48 and 43 respectively) to: <ol style="list-style-type: none"> Establish the concept of an alternative person to the distributor-retailer (e.g. a “chosen water assessor”) also being able to do either or both of the following: <ol style="list-style-type: none"> the administration of a water application; the assessment and decision of part or all of a water application Provide for the distributor-retailer to keep a list of persons who are appropriately qualified to be chosen water assessors, and also provide for the function to operate in the way outlined in the cl 48 and 43 of the respective Bills Make consequential amendments to relevant operational sections to include “chosen water assessor” to ensure the requirements for applications dealt with by the distributor-retailer and a chosen water assessor are consistent (e.g. for 99BRAI, ensuring copies of decision notices issued by chosen assessors are given to the distributor- retailer etc.). <p>Affected sections to be made compatible with the Planning Bills (e.g. clauses 63, 76, 83, 84, 87, and Schedule 1 of the Government’s Planning Bill 2015) include: s99BRAI; s99BRAK;</p>

² South-East Queensland Water (Distribution and Retail Restructuring) Act 2009



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Submission on Planning Bills (14 January 2016)

Table 1 - Recommended Changes to the Planning Bills

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		<ul style="list-style-type: none"> The mechanism is entirely compatible with the water connections approval process Unitywater is already progressing an accreditation system that is consistent with the overall intent of this initiative Inclusion of the mechanism into the SEQ Water Act will ensure consistency is maintained across the systems. The change will benefit the development industry as summarised in Table 2. 	s99BRAR; s99BRAU and s99BRAV.
2.	<p>Transitional Provisions for Distributor-Retailers</p> <p><i>Cl 295 Planning Bill 2015</i></p> <p><i>Cl 499, news 141, 147, 148 Planning (Consequential) and Other Legislation Amendment Bill 2015</i></p> <p><i>Cl 252 Planning and Development (Planning for Prosperity) Bill 2015</i></p> <p><i>Cl 475, new s 142, 146, 147 Planning</i></p>	<p>Resolving the problematic transition of the water connection aspects of development applications and approvals</p> <p>The separate water approval process for Distributor-Retailers came into effect on 1 July 2014. This separated the assessment and approval of water and sewerage infrastructure and works related matters from SPA³ to a new regulatory system under the SEQ Water Act.</p> <p>The transitional provisions to effect this change have proven to be problematic. The transitional provisions in the new Planning Bills continue, for the most part, the current complexities.</p> <p>They original SPA provisions are unnecessarily complex, inconsistent and confusing for Unitywater, Councils and applicants/developers alike. In their current form they add cost and time to development that Unitywater has limited powers to address because of the way the legislation is drafted.</p> <p>In relation to RoL⁴ approvals covered by SPA s959D (Existing staged development approvals) the transition was straightforward. The water connection aspects of approvals that were granted before 1 July 2014 were transitioned to be staged water approvals on and from 1 July 2014. Accordingly, subsequent applications for work or</p>	<p>The suggestions listed below relate to the Government's Planning Bill and the Consequential Bill. Similar outcomes may be achieved with the Private Member's Bills. It is considered that four clauses require amendment.</p> <p>Planning Bill 2015</p> <p>The amendments below relate to cl 295 (Water infrastructure applications). The purpose is to effect the transition of the water connection aspects of all development approvals in effect immediately before 1 July 2014 to be taken to be water approvals. To achieve this:</p> <ol style="list-style-type: none"> Recast cl 295 (Water infrastructure applications) to only apply to development applications that were in progress on 1 July 2014, i.e. delete reference to development approvals in subsection (1). Recast the balance provisions of cl 295 to apply only to development applications in progress on 1 July 2014 Include a substantive provision to declare that the Planning Act does not apply to the water connection aspect of a development approval under the section when the approval has taken effect to avoid uncertainty and confusion about the outcomes for water related applications in distributor-retailer areas. Alternatively, and at least, a note referencing new section 147 in clause 499 of the

³ Sustainable Planning Act 2009

⁴ Reconfiguring a lot



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	<i>and Development (Planning for Prosperity—Consequential Amendments) and Other Legislation Amendment Bill 2015</i>	<p>other matters (i.e. stages) related to the approval are dealt with under the water approval process.</p> <p>However, for other development approvals in existence before 1 July 2014 the situation is not straightforward. SPA s959C (Related applications) requires any development application that is related to approvals in existence before 1 July 2014, to be made and decided under SPA. If the application is for MCU⁵ or RoL, the water connection aspect of the approval (including conditions) is then transitioned to be water approval. If the application for OpW⁶ is not transitioned the water connection aspects of the approval remain under SPA.</p> <p>This is complex, confusing and inconsistent. It means there is only a gradual transition to the new water approval system as the related application mechanism will likely continue for up to a decade, particularly for certain larger and more complex pre-July 2014 development approvals.</p> <p>The alternative preferred approach is to transition the water connection aspects of all pre-1 July 2014 approvals that have a water connection aspect, as has already been done with pre-1 July 2014 staged RoL approvals. This ends the transition and creates clear and straightforward pathways for applicants and approval holders.</p> <p>Reasons to support change</p> <ul style="list-style-type: none"> The changes overcome the current complexities and confusion that continue to cause confusion to the development industry, Council and Distributor-Retailer and result in additional time (i.e. additional cost) in preparing and assessing applications. The changes are achievable without major changes to the Planning Bills or the SEQ Water Act being needed 	<p>Consequential Bill should be inserted to explain how the water connection aspects of relevant development approvals are dealt with. (New section 147 currently makes a statement about the cessation of the operation of the Planning Act for these water connection aspects.)</p> <p>4. Insert section definition for “water connection aspect” consistent with definition in cl 499, new section 141, paragraphs (b) and (c) only.</p> <p>Planning (Consequential) and Other Legislation Amendment Bill 2015.</p> <p>The amendments relate to cl 499, new sections 141, 147 and 148. The purpose, as above, is to effect the transition of the water connection aspects of all development approvals in effect immediately before 1 July 2014. To achieve this:</p> <ol style="list-style-type: none"> Amend new section 141 (Definitions for part) by: <ol style="list-style-type: none"> Deleting definition of “defined related application” as this is no longer required Amending the definition of “water connection aspect” by deleting para (a). Amend new section 147 (Development approval involving a water connection aspect given after commencement) by: <ol style="list-style-type: none"> Deleting subsection (1)(a) – (c) and replace with provisions to apply the section to both: <ol style="list-style-type: none"> a development approval given before 1 July 2014; and an approval referred to in subsection (1)(c)(i)

⁵ Making a material change of use of premises

⁶ Carrying out operational work



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Table 1 - Recommended Changes to the Planning Bills

Item	Reference	Issue and Discussion	Suggestion
		<ul style="list-style-type: none"> A similar proposal to transition the water connection aspects of development approvals was previously canvassed with and supported by all Participating Councils in 2014. 	<ul style="list-style-type: none"> b. Retaining subsection (2) and renumbering accordingly. 3. Amend new section 148 to delete reference to “defined related application” and recast the section to apply to an application in progress on 1 July 2014.
3.	<p>Necessary infrastructure conditions <i>Cl 126 Planning Bill 2015</i></p>	<p>Maintaining parity between Planning Act and SEQ Water Act in relation to infrastructure conditioning powers</p> <p>The Planning Bill 2015, cl126 amends s645 of SPA to clarify that a condition may be imposed for trunk infrastructure that has not been provided or has been provided and the trunk infrastructure is or will be located on the development site whether or not the infrastructure is necessary to service the subject premises or will be located on other premises, but is necessary to service the subject premises.</p> <p>The bolded words have been added to clarify the scope of the conditioning power. A complementary amendment to s99BRCP of the SEQ Water Act is necessary to maintain consistency.</p> <p>Reasons to support change</p> <ul style="list-style-type: none"> The infrastructure conditioning powers under SPA and the SEQ Water Act are essentially identical to ensure there is consistency in infrastructure conditioning powers. An amendment of SEQ Water Act section 99BRCP as discussed will ensure consistency is maintained. 	<p>It is suggested that the Planning (Consequential) and Other Legislation Amendment Bill 2015, Part 55 dealing with amendments of the SEQ Water Act be further amended as follows:</p> <ol style="list-style-type: none"> Insert a new section after section 486 (Amendment of s99BRCP) to deal with the amendment of s99BRCP Amend s99BRCP to incorporate the following clarifying words inserted into the companion section in the Planning Bill, cl 126: <ol style="list-style-type: none"> “whether or not the infrastructure is necessary to service the subject premises or will be located on other premises, but is necessary to service the subject premises”.



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Table 2 –Summary of Benefits of a System of Accreditation and Certification

Water and Sewerage Utilities	Developers	Consultants and Contractors
<ol style="list-style-type: none"> 1. More efficient utilisation of the Utilities' resources through competent consultants and contractors delivering good quality applications, designs and infrastructure. 2. Increased confidence in the quality of the assets delivered by the developer. 	<ol style="list-style-type: none"> 1. Greater control over time and cost of connections applications process. 2. Reduced risk of poor commercial outcomes through increased confidence in the competency of consultants and contractors. 	<p>Fairer competition through elimination of individuals and/or companies who are incompetent and/or unethical in the performance of their responsibilities (e.g. a contractor wins work through deliberate tendering of low prices and achieves a profit margin by not implementing safety and quality systems).</p>