Moreton Bay Regional Council

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The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Submission no. 073
28 February 2014
11.1.15

Dear Sir or Madam

Re: SUBMISSION ON THE WATER SUPPLY SERVICES LEGISLATION AMENDMENT BILL 2013

Thank you for the opportunity to comment on the proposed Water Supply Services Legislation Amendment Bill 2014.

Officers have considered the amendments proposed by the Bill, particularly those affecting the current development assessment processes, and the following comments are provide for consideration:-

(1) There is a threat that the relocation of the approvals mechanism for "water services" and "wastewater services", as well as the trunk infrastructure charging provisions relating to those services/networks, from the *Sustainable Planning Act 2009* (SPA) to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (which is referred to in the Bill as the SEQ Water Act), will result in "disintegration" of the development assessment regime/philosophy put in place by the *Integrated Planning Act 1997* and carried on by the *Sustainable Planning Act*. It is difficult to see how this "disintegration" will result in measurable efficiencies for development proponents, distributor-retailers or Councils given the obvious inter-dependencies between "water infrastructure" and other development services.

Using a standard lot reconfiguration as an example, moving the approvals process for "water infrastructure" into the SEQ Water Act will remove the oversight that Council currently has as part of its assessment manager role under SPA. This could potentially lead to a "water approval" (for the water and wastewater services) and the development approval (for the remaining services) being based on different service details, possibly resulting in conflicts between critical services. Delays and additional costs to rectify disparate approvals may be the result.

(2) It is noted that the current concurrence agency and compliance assessment rules for distributor-retailers under SPA will continue to apply to all applications/requests, (except those relating to "staged development applications"), lodged prior to the proposed changes coming into effect. The current rules also apply to subsequent "related applications" regardless of when they are lodged. As some "related applications" can be lodged years after the "original approval" came into effect, the transitional arrangements for distributor-retailers can be unnecessarily protracted. To avoid confusion and

extensive transitional processes development that currently falls within the definition of operational works for water supply and/or sewerage proposed after the new regime coming into effect should be dealt with the same way whether or not it relates to reconfiguring a lot.

(3) The transition rules for "staged development applications" will differ significantly from the norm and seem to be unnecessarily convoluted, while even the scope of what constitutes a "staged development application" is unclear.

For "staged development applications" that are either lodged or approved prior to the proposed changes coming into effect, subsequent related applications for reconfiguring a lot or operational works that contain a "water connection aspect" will need to be dealt with under the new regime, (ie, the "water connection aspect" is to be processed under SEQ Water Act). Such a disparity between the processing rules for "staged development applications" and those outlined in (2) above for all other applications is illogical and unnecessarily confusing.

A "staged development application" is defined in the Bill as "…*an application for a development approval for reconfiguring a lot*.". Presumably, it is intended to cover applications for reconfiguring a lot where works are required, particularly those where the subdivision involves more than one stage. It is recommended, the definition be revised to clarify the intended scope of this new term. These same concerns also apply to the definition of the related term "staged development approval".

(4) It is noted that the proportion of the adopted infrastructure charge that is directly attributable to the "water connection aspects" under an adopted infrastructure charges resolution or an agreement between a distributor-retailer and its associated Council will continue to apply until such time as the distributor-retailer has adopted a charge for the infrastructure under the SEQ Water Act. It is recommended that additional words be added to the new provision addressing this issue to make it clear that it only relates to the distributor-retailer's component of the adopted infrastructure charge.

(5) Schedule 19, which deals with compliance assessment of subdivision plans, is intended to be expanded to insert the following as additional requirements that need to be met prior to endorsing plans of subdivision:-

(a) compliance with the conditions of any applicable "water approval" under the SEQ Water Act; and
(b) payment of all applicable fees and charges levied by a distributor-retailer under the SEQ Water Act.

It is suggested that consideration should be given to ensuring the distributor-retailer undertakes the necessary compliance checks and confirmation of payment of fees and charges in a timely manner upon request from the development proponent. This is considered important to enable development proponents to submit fully documented requests for compliance assessment to Councils which demonstrate that all of the distributor-retailer requirements have been meet. This is not a role for Council.

(6) It is noted that the aspects of the distributor-retailer's current concurrence agency assessment that would not ordinarily be covered by a "connections application" are not proposed to be removed from SPA, so the distributor-retailer's responsibilities will be split across SPA and the SEQ Water Act. The compelling merits of this proposal are unclear unless it relates only to approvals in place prior to the proposed changes coming into effect such as a request for a permissible change to distributor-retailer condition or extension to the relevant period.

(7) Terminology used in the SEQ Water Act needs to be easily distinguishable from that used in SPA. A "water approval" under the SEQ Water Act is intended to take the form of a "decision notice" which could easily be confused with a decision notice issued for a development approval under SPA.

(8) The Bill currently stipulates that an appeal under the SEQ Water Act must be commenced within 30 business days of the original decision being made. The timing needs to be tied to the applicant's receipt of the decision rather than from the date that the decision was made to overcome any adverse effect of delays emanating from internal administrative processes and potential postage issues. It is considered advantageous to retain consistency where possible.

(9) The proposed provisions make allowance for timing of payment of "adopted trunk infrastructure charges" to be set in the adopted trunk infrastructure charges notice in certain instances. Those instances are limited to approvals for development in a form other than reconfiguring a lot, a material change of use or building work. This is never likely to occur given the limits imposed on the forms of development over which "adopted trunk infrastructure charges" may be levied under SPA and the *State Planning Regulatory Provisions (adopted charges).*

The wording of this new Part also implies that a charge may be levied for a connection related to a material change of use that is neither assessable development nor development requiring compliance assessment under SPA (refer to section 99BRCN (3) & (4)). Again, this not possible under the current provisions of SPA and the *State Planning Regulatory Provisions (adopted charges)* and needs to be corrected.

(10) Under the proposed changes, if a distributor-retailer asks Council for information or documents relevant to a "water approval" (eg, information about a development application or approval), the information must be given as soon as practicable and at no cost. The converse also applies. The reasonable exchange of information is supported. The extent of information that is likely to be requested could be considerable in some instances and to apply a prohibition on reasonable charging for that service, without setting parameters on the extent of information that can be sought, is financially uncertain. A viable alternative could be that an agreement on information sharing between the parties be mandated in the same way that allocation of adopted trunk infrastructure charges between distributor-retailers and their participating local governments is currently mandated.

(11) If a distributor-retailer requests information or documents held by its participating local government pursuant to a delegation from a distributor-retailer, the local government will be required to provide that material at no charge. Again, a prohibition on charging for that service, without setting parameters on the extent of information that can be sought, would be financially unreasonable. As indicated in (10) above, a viable alternative could be that an agreement on information sharing between the parties be mandated.

The opportunity to comment on the changes envisaged under the Water Supply Services Legislation Amendment Bill 2014 is appreciated. The comments have prepared based on the officer understanding of the provisions able to be gained within the timeframes available to comment. Officers are available to clarify and discuss any of the comments.

For further information, please contact Council's Policy Research Officer, Tony Symons, on 5433 2511 or e-mail tony.symons@moretonbay.qld.gov.au.

Yours faithfully

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