

Housing Availability and Affordability (Planning and Other Legislation) Amendment Bill 2023

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Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

Section	Description	Discussion	Urban Utilities position	Recommendation
Part 18, s28A	Prohibited Development in the Urban Investigation Zone	<p>The proposal for local governments to prohibit development by zoning land outside the PIA boundary as Urban Investigation Zone aims to 'put land in a holding pattern until it is ready to support growth.'</p> <p>This new power for local government is supported as it is likely to reduce out of sequence developments.</p> <p>There is a risk that Urban Utilities may need to construct trunk infrastructure (say a reservoir, sewage treatment plant or a pump station) within the Urban Investigation Zone to support approved development in nearby urban areas. In this scenario, it is important for a clear statement to be contained in the Bill exempting utility installations and any associated reconfiguration of a lot from prohibition.</p>	Amend to address recommended change to the Bill.	Insert a specific exemption to s28A to clarify that Utility Installations as defined by the Planning Regulation and any lot reconfiguration (including creating new easements) associated with the construction of Utility Installations are exempt from the proposed prohibition of development in the Urban Investigation Zone.

Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

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263B	Power to take easements	<p>The Bill proposes creating a reserve power for the State in the Planning Act to take or purchase land or create easements for planning purposes, to facilitate the delivery of development infrastructure to unlock development.</p> <p>This power is supported. Urban Utilities places conditions on developers to deliver trunk infrastructure which sometime require the delivery of trunk infrastructure traversing neighbouring land. Developers sometime cannot secure the optimal alignment, requiring suboptimal alignments to avoid the land where access was refused. The resulting suboptimal alignments are often more costly to construct and operate.</p> <p>The power can be exercised by the state on behalf of 'public service entities' or 'entities.' These terms are not defined so it is unclear if this new state power will apply to easements sought by distributor-retailers.</p>	Amend to address recommended change to the Bill.	Add text which clarifies that the 'public sector entity' seeking easements to facilitate development includes distributor-retailers.

Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

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263B-263G		The Bill's wording does not clearly address situations where joint easements are sought by more than one entity. This is possible in the Urban Utilities service area where Urban Utilities might seek a water supply or wastewater easement and the relevant council is seeking to build a stormwater drain or bikeway along the same alignment.	Amend to address recommended change to the Bill.	Add text which clarifies that agreement may be with more than one person and that an easement may be a joint easement to allow both distributor retailer and council infrastructure to be delivered.
263A (c)	Infrastructure agreements between the state and entities benefitting from easements	In the event that Urban Utilities elects to approach the state to acquire an easement on its behalf, assurance would be required that the transaction aligns with our corporate values of prudent and feasible network planning.	Draft content for associated regulation	Criteria prescribed by supporting regulation includes: <ul style="list-style-type: none"> agreed land valuations prepared by qualified land valuers representing current market price. agreed easement alignment achieving optimal network operations, access, maintenance and avoiding or minimising impact on existing environmental values.
3B-3C; Div 3	Growth Area	<p>New provisions in the Planning Regulation give effect to the Caboolture West structure plan and begin to describe the attributes of 'growth areas'.</p> <p>Caboolture West growth area is not in the Urban Utilities service area.</p> <p>However, more generally, Urban Utilities seeks assurance that 'growth areas' do not impact on our powers under the SEQW(D&R) Act to</p>	Amend legislation or prepare regulations to address recommendation.	<p>Either in legislation or associated regulation, clarify the role of distributor-retailers in growth areas, namely:</p> <ul style="list-style-type: none"> Growth areas do not impact on distributor-retailer's trunk funding from infrastructure charges and other fees associated with water approvals. Growth areas remain a part of the distributor-retailer's service areas. Water Netserv Plans prepared by the distributor-retailer remain the relevant

Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

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		prepare Water Netserv Plans, assess applications to connect to our network and collect infrastructure charges within growth areas.		<p>water supply and wastewater planning documents.</p> <ul style="list-style-type: none"> • The distributor retailer remains the relevant authority assessing water approvals and permitting water and sewer connections to their networks. • The distributor retailer conditions infrastructure charges in accordance with the Water Netserv Plans infrastructure charges table.
NEW	Growth Areas	<p>The Bill legislated for Caboolture West growth area but does not describe the ground rules for growth area planning more generally. More detail could be prepared regarding growth area planning to describe the role of the distributor- retailer in the growth area planning process.</p> <p>Urban Utilities would prefer to be included in the land use planning process to ensure that land requirements for water and wastewater infrastructure are included in any growth area structure plans.</p>	Prepare regulations to address recommendation.	Prepare a description of growth area planning which includes planning for the land requirements for future water and wastewater trunk infrastructure as part of the growth area structure plan making process.
38	Public notice, access to documents and submission requirements	The Bill seeks to modernise public notices, document access, and submission requirements to no longer require hard copy newspapers, hard copy documents for inspection or purchase, or hard copy submissions.	Changes to other legislation (SEQW(D&R) Act)	Reflect modernisation of public notice processes within the SEQW(D&R) Act for consistency so that Water Netserv Plan amendments can benefit from these streamlined plan making provisions.

Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

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		<p>Urban Utilities supports these amendments to modernise the notices and document requirements around plan making and development assessment.</p> <p>Urban Utilities requests that they also be reflected within the SEQW(D&R) Act for consistency.</p>		
106A-N	Declaring State facilitated applications	<p>The Bill proposes the introduction of a State facilitated application as an alternative development assessment pathway aiming to deliver development that is a priority to the State (e.g. affordable housing) in a timely manner.</p> <p>This new assessment pathway is supported by Urban Utilities to streamline the Development Assessment pathway, however the Bill does not address the assessment process for areas of the State covered by the SEQW(D&R) Act. Currently, Development Assessment and Approval is undertaken by local governments and a separate Water Assessment and Approval undertaken by the relevant distributor-retailer. This process also allows for an Infrastructure Charges Notice (ICN) being issued by the distributor-retailer in relation to a Water Approval.</p>	Amend to address recommended change to the Bill.	<p>Clarify that the distributor-retailer continues to issue Water Approvals under the SEQW(D&R) Act when the state assesses state facilitated applications under division 3.</p> <p>Proposed s106H(3) to be amended to include distributor-retailers as follows: "To remove any doubt, it is declared that the local government <u>or distributor-retailer</u> may give an infrastructure charges notice in relation to a development approval given for the application under division 3."</p>

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		<p>The Bill wording does not provide clarity or guidance on whether the Water Approval process under the SEQW(D&R) Act is affected by these amendments.</p>		
NEW	<p>LGIP and WNP Inconsistent Amendment Processes</p>	<p>Section 21 of the <i>Planning Act 2016</i> outlines that a local government must follow the process in the Ministers Guidelines and Rules (MGR) for making or amending a local government infrastructure plan (LGIP). Chapter 5 of the MGR outlines the Minister’s rules for reviewing, making or amending a LGIP. Chapter 5 of the MGR outlines three (3) types of LGIP amendment processes and the thresholds for determining each level of amendment, being:</p> <ol style="list-style-type: none"> 1. administrative LGIP amendment – relates to correcting or changing either explanatory matters; format or presentation; spelling or grammatical errors; factual matters; redundant or outdated terms; inconsistent numbering; or cross-referencing; 2. interim LGIP amendment – is an amendment that is not an LGIP review, and <u>the amendment does not propose to reduce the size of, remove an area from, or remove, a priority infrastructure area (PIA) from the LGIP,</u> and 	<p>Changes to other legislation (SEQW (D&R) Act)</p>	<p>Proposed that minor amendment definition contained within Section 99BAA(5) of the SEQW(D&R) Act be amended to the following wording to provide consistency with the LGIP requirements outlined in Chapter 5 of the MGR.</p> <p><i>minor amendment</i>, of a Water Netserv Plan, means –</p> <ol style="list-style-type: none"> (a) an amendment to the plan because of a change under section99BL(3) to the SEQ service provider’s connections policy; or (b) an amendment of the connections policy, <u>including amendments to connection area mapping that do not propose to remove land from a connection area,</u> other than an amendment to the future connection area; or (c) an amendment of the schedule of works included in the plan.

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		<p>3. LGIP amendment – is an amendment that is not making a new LGIP, an administrative LGIP amendment or an interim LGIP amendment.</p> <p>Under the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 (SEQW(D&R) Act) the Water Netserv Plan (WNP) takes on the functions of the LGIP for distributor-retailers, in particular the role of the PIA is translated to connection areas and future connection areas. The SEQW(D&R) Act requires consistency of the future connection area and the PIA of participating local governments (section 99BO(2)(a)). The process for making and amending a Water Netserv Plan is contained within the SEQW(D&R) Act under Chapter 4B, Part 4 and outlines three (3) types of Water Netserv amendments and the thresholds for determining each level of amendment being:</p> <p>1. Administrative amendment – relates to correcting or changing either format or presentation; cross-referencing; spelling, grammatical or mapping errors; factual matters; redundant or outdated terms; inconsistent</p>		

Urban Utilities submission regarding Housing Availability and Affordability Bill October 2023

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		<p>numbering; expression of a number, year, date, time or amount; or a change for relating to charges schedules 99BO(1)(g) or 99BOB;</p> <ol style="list-style-type: none"> 2. Minor amendment – means an amendment; <ol style="list-style-type: none"> a. to the plan because of a change under section 99BL(3) to the SEQ services provider’s connections policy; or b. of the connections policy, <u>other than an amendment to the future connection area</u>; or c. of the schedule of works included in the plan; 3. Major amendment – an amendment other than an administrative amendment or minor amendment of the plan. <p>As outlined in the underlined sections of the interim LGIP amendment and the WNP minor amendment, there is an inconsistency between the process for a local government to add areas to the PIA in the LGIP and the process for distributor-retailers to reflect the same area in the future connections area. This inconsistency means that distributor-retailers plan making process have not been streamlined and the</p>		

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		<p>benefits of planning reform are not flowing through to Water Network Plans.</p> <p>The major amendment requirement for amending the extent of future connection areas can add adds up to two years to the statutory amendment process. This delay adds no value as all the land use planning and network planning is approved and both distributor retailer and council agree to the land use and infrastructure planning outcomes.</p>		