

Water Legislation Amendment Bill 2022

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Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: sdric@parliament.qld.gov.au

Dear Committee Secretary

Water Legislation Amendment Bill 2022 - Central Highlands Regional Council Submission

Reference is made to the current inquiry in relation to the *Water Legislation Amendment Bill 2022 (Bill)* which has been referred to the State Development and Regional Industries Committee (**Committee**) for detailed consideration. It is noted that the Committee is presently inviting submissions in relation to the Bill from interested parties.

Central Highlands Regional Council (**Council**) welcomes the opportunity to provide a submission to the Committee.

Council is an interested party for the purposes of the Bill currently before the Committee. As Chief Executive Officer, I am authorised to make a submission on behalf of Council in relation to the Bill. On behalf of Council, I ask the Committee to have regard to the following matters in consideration of the Bill:

1. Increased administrative burden that will result from clause 57 of the Bill

Council, along with its fellow local government service providers, is presently only required to provide the regulator with notice if its service provider registration has changed. Clause 57 of the Bill proposes to require all service providers (including local government service providers) to provide the regulator with an annual notice even if there has been no change to their service provider registration details. Council submits that the proposed change envisaged under clause 57:

- creates unnecessary administrative burden on a local government workforce already experiencing an over 35% vacancy rate (Local Government Skills Shortage Survey 2017, LGWDG – confirmed by reference to Council's current vacancy rates in water utilities);
- introduces unnecessary red tape; and
- achieves no discernable purpose.

2. Procedural fairness issues in relation to clause 60 of the Bill insofar as it relates to use of the ‘reasonable belief’ standard as part of the amendment of section 108A of the *Water Supply (Safety and Reliability) Act 2008 (Qld)*

Pursuant to the current section 108A of the *Water Supply (Safety and Reliability) Act 2008 (Qld)* (**WSSR Act**), a service provider commits an offence if it fails to ensure that someone other than the provider audits the data in its performance report, prepared a performance audit report which includes the KPIs and gives the regulator the performance report by the specified dates. Clause 60 of the Bill makes a number of sensible proposals, such as inclusion of a linkage to the new auditor definition and linkage to section 142A(3) of the WSSR Act. However, where current section 108A affords service providers with certainty in relation to when a performance report will be non-compliant with the WSSR Act, clause 60 generates a lack of clarity, indicating that the regulator can require Councils to go to significant expense via engagement of an auditor on the basis of only the regulator’s “reasonable belief” and does not require the regulator to set out grounds. The legal test with respect to reasonable belief does not require the regulator to be correct and noting the expense entailed in engaging an auditor, Council submits that:

- On procedural fairness grounds, the regulator should be required to do more than form a reasonable belief;
- Clause 60 should be amended to remove a regulator’s ability to require a performance audit report based upon reasonable belief grounds and instead include show cause notice provisions similar to the *Waste Reduction and Recycling Act 2008 (Qld)* which would afford service providers with procedural fairness.

3. Alignment of clause 63 of the Bill with local government budgetary processes

Clause 63 of the Bill presently provides for amendment of the Customer Service Standard to be completed within six (6) months following a review, which does not align with the budgetary processes of most local governments. It is submitted that alignment with local government budgetary processes could be better achieved through inclusion of a 12 month timeframe.

Should you have any queries in relation to this submission, please do not hesitate to contact Jason Hoolihan, General Manager of Infrastructure & Utilities on [REDACTED] or Millicent Bradley Woods, Principal Projects Advisor on [REDACTED].

Yours faithfully

[REDACTED]
Sharon Houlihan
Chief Executive Officer