



12 March 2018

Committee Secretary
Transport and Public Works Committee
Parliament House
George Street
Brisbane QLD 4000

Email: tpwc@parliament.qld.gov.au

Dear Sir/Madam

LGAQ Submission - Plumbing and Drainage Bill 2018

The Local Government Association of Queensland (LGAQ) welcomes the opportunity to provide comments to the Transport and Public Works Committee on the State Government's proposed *Plumbing and Drainage Bill 2018* (the Bill).

The LGAQ acknowledges and provides in principle support for the key objectives of the Bill to:

- *'Establish a contemporary, streamlined and flexible legislative framework for plumbing and drainage that is clear and simple for the end user; will ensure both public health and the environment are protected; and will meet industry and community expectations over the next decade.*
- *Provide authority for the making of a contemporary plumbing regulation that will be clear and easy for practitioners to use; reduce the regulatory burden on consumers, industry and local government; and include improved regulatory requirements for obtaining approvals for plumbing and drainage work.*
- *Provide authority for the making of a contemporary plumbing code that will include all plumbing standards required to vary and complement national plumbing standards.*
- *Protect public health and safety through the regulation of mechanical services work, including medical gas work, under the Queensland Building and Construction Commission Act 1991 (QBCC Act)' (Explanatory Notes to the Bill, page 1).*

The LGAQ acknowledges and supports the amendments to the QBCC Act regarding the introduction of new licensing arrangements for mechanical services work on the basis that the mechanical services licences will be issued and administered by the QBCC, and not expand the role of local government in administering plumbing laws in their local government area.

However, there remain some unresolved priority local government issues in the Bill including:

- use of the terms **'inspection certificate'** / **'final inspection certificate'** (clause 69);
- a lack of clarity regarding the types of **on-site sewage facilities** that a local government must monitor (clause 137);
- the disconnect between the Bill (clause 147) and the *Planning Act 2016*, in relation to the penalties for contravening, or tampering with, **enforcement notices**; and
- the new definition for **'water service'** (schedule 1).

For further detail and recommendations regarding these issues, refer to the attachment provided with this letter.



In addition, the LGAQ is concerned that the absence of the proposed plumbing regulation and the proposed new plumbing code inhibits the ability to fully consider and identify the range of implications for local government.

The Bill entrusts a number of aspects to the proposed plumbing regulation outlined in clause 157 of the Bill and throughout various other provisions, and is significantly more expansive than the current regulation-making powers under the *Plumbing and Drainage Act 2002*.

Many of the additional regulation-making powers relate to and may impact on the roles, responsibilities and functions of local government, for example by providing for:

- the inspection of permit work and notifiable work and the giving of action notices, inspection certificates or final inspection certificates for the work;
- the types of on-site sewage facilities and greywater use facilities a local government must monitor;
- circumstances when a local government is not required to inspect particular plumbing or drainage work, and for the giving of notices about the work;
- the registers the commissioner or a local government must keep and the information that must or may be included in each register; and
- matters relating to plumbing or drainage work, generally.

It is important that local governments and the LGAQ be closely engaged in the development of the proposed plumbing regulation to ensure that all potential implications for local government can be thoroughly considered and addressed.

Similarly, clause 7 of the Bill provides the authority to make the Queensland Plumbing and Wastewater Code but details of the proposed new plumbing code have not been provided with the current version of the Bill.

It is understood that the new plumbing code will set out the Queensland specific plumbing and drainage technical standards that were previously set out in the Queensland Plumbing and Wastewater Code, the *Plumbing and Drainage Act 2002* and the *Standard Plumbing and Drainage Regulation 2003*. Local governments will be responsible for enforcing the code requirements and therefore should be closely consulted as the code is prepared.

If you require any further information or clarification, please feel free to contact Ms. Crystal Baker, Principal Advisor – Planning & Development directly via [REDACTED]

Yours sincerely

A handwritten signature in blue ink, which appears to read 'Sarah Buckler', is written over a white background.

Sarah Buckler
GENERAL MANAGER – ADVOCACY



Submission to the Transport and Public Works Committee

on the

Plumbing and Drainage Bill 2018

Local Government Association of Queensland Ltd

12 March 2018

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association set up solely to serve councils and their individual needs. LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. 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.

Executive Summary

The LGAQ is pleased to contribute to the Parliamentary Committee process associated with the *Plumbing and Drainage Bill 2018* (the Bill) which was introduced to Parliament on 15 February 2018, by the Hon Mick de Brenni MP, Minister for Housing and Public Works, Minister for Digital Technology and Minister for Sport.

The LGAQ has prepared a detailed response below in relation to four key aspects of the Bill with the potential to impact on local governments:

- use of the terms '**inspection certificate**' / '**final inspection certificate**' (clause 69);
- a lack of clarity regarding the types of **on-site sewage facilities** that a local government must monitor (clause 137);
- the disconnect between the Bill (clause 147) and the *Planning Act 2016*, in relation to the penalties for contravening, or tampering with, **enforcement notices**; and
- the new definition for '**water service**' (schedule 1).

In summary, the LGAQ has made 5 recommendations for consideration of the Transport and Public Works Committee in relation to the Bill:

- **Recommendation A:** The LGAQ recommends that 'inspection certificate' is renamed in the Bill to more accurately align with the purpose of the certificate as an interim measure and clearly distinguish this from a 'final inspection certificate'. Possible suggestions include a 'preliminary inspection certificate' or 'partial inspection certificate'.
- **Recommendation B:** The LGAQ recommends that local governments maintain discretion in relation to their plumbing practices, i.e. the process for issuing inspection/final inspection certificates, and that the example used in the Bill in relation to an individual dwelling be reworded to clarify the policy intent of the provisions relating to staged developments e.g. multi-tenancies.
- **Recommendation C:** The LGAQ requests that the Department of Housing and Public Works engage with local government and the LGAQ in drafting the new plumbing regulation (and plumbing code) requirements, including the types of on-site sewage facilities a local government must monitor in its local government area to ensure a balance between reactive and proactive approaches to monitoring.
- **Recommendation D:** The LGAQ recommends that the existing link between the *Plumbing and Drainage Act 2002* and the *Planning Act 2016* be re-established/maintained in the Bill (clause 147), such that enforcement notices under plumbing and drainage framework are taken to be an enforcement notice under the *Planning Act 2016* or at least, consistent with the same penalties in relation to contravening, or tampering with, an enforcement notice.
- **Recommendation E:** The LGAQ recommends that the proposed definition of 'water service' in the Bill, taken from the *Water Supply (Safety and Reliability) Act 2008*, be reconsidered and amended in the context of AS-NZS 3500.0: 2003 to ensure that it is appropriate for and aligned with the plumbing and drainage framework.

Response to specific provisions of the *Plumbing and Drainage Bill 2018*

1. Inspection certificate vs. final inspection certificate

The LGAQ welcomes the inclusion of clause 69 in the Bill which ‘*makes it an offence to use plumbing or drainage that is the result of permit work, unless an inspection certificate or final inspection certificate has been issued for the permit work stating the work is compliant and the plumbing or drainage that is the result of the work is operational and fit for use*’ (Explanatory Notes to the Bill, page 43). The inclusion of this provision will assist local governments in finalising plumbing applications and ensures the risks to public health and safety and the environment are appropriately managed.

The LGAQ understands that an ‘inspection certificate’ is intended to allow for partial completion of the permit work, such that home owners/occupants can continue to live in the premises when plumbing work is being undertaken for alterations.

The flexibility incorporated in this provision is important, however there is a need to more clearly distinguish between the terminology ‘inspection certificate’ and ‘final inspection certificate’, particularly given that this provision applies to a home owner/occupant rather than the plumber or builder.

To remove any potential confusion, the LGAQ recommends that ‘inspection certificate’ is renamed in the Bill to more accurately align with the purpose of the certificate as an interim measure and clearly distinguish this from a ‘final inspection certificate’. Possible suggestions include a ‘preliminary inspection certificate’ or ‘partial inspection certificate’.

This is consistent with the approach taken in various other legislative frameworks such as the use of a ‘preliminary approval’ and ‘development permit’ under the *Planning Act 2016*, and an ‘interim certificate of classification’ and a ‘certificate of classification’ under the *Building Act 1975*.

It should be noted that the practice of having a preliminary/partial ‘inspection certificate’ and a ‘final inspection certificate’ issued for an individual dwelling (such as indicated by the example included in the Bill) is contrary to the current plumbing practice within many councils, of issuing one certificate at the completion of all works.

The LGAQ understands that the regulation (not yet available) may ‘*provide for the inspection of permit work and notifiable work and the giving of action notices, inspection certificates or final inspection certificates for the work*’ (clause 157(2)(f) of the Bill). The introduction of clause 69 and the associated regulation provisions, should not impose a new requirement on local governments to implement new plumbing practices/process.

The LGAQ understands that the policy intent of the inspection certificate/final inspection certificate is to provide for the staging of a development (e.g. a multi-tenancy development) and therefore suggests that the example provided in the Bill also be reconsidered.

Summary of recommendations:

- A) The LGAQ recommends that ‘inspection certificate’ is renamed in the Bill to more accurately align with the purpose of the certificate as an interim measure and clearly distinguish this from a ‘final inspection certificate’. Possible suggestions include a ‘preliminary inspection certificate’ or ‘partial inspection certificate’.
- B) The LGAQ recommends that local governments maintain discretion in relation to their plumbing practices, i.e. the process for issuing inspection/final inspection certificates, and that the example used in the Bill in relation to an individual dwelling be re-worded to clarify the policy intent of the provisions relating to staged developments e.g. multi-tenancies.

2. Monitoring particular on-site sewage facilities

Clause 137 of the Bill specifies that a regulation may prescribe the types of on-site sewage facilities a local government must monitor in its local government area. In the absence of the proposed plumbing regulation it is unclear what limitations will be placed on local government in relation to monitoring requirements. However, the explanatory notes to the Bill state that '*clause 137 of the Bill is based on section 143C of the repealed Plumbing and Drainage Act 2002*' which specifies that each local government must monitor on-site sewerage facilities installed for 'testing' purposes only.

The LGAQ understands that local government already has sufficient authority to monitor/investigate any on-site sewage facility as per the following provisions:

- clause 140 of the Bill – in relation to conducting investigations;
- clause 143 of the Bill – in relation to giving a notice to the owner of premises, requiring the owner to take stated action if the local government reasonably believes plumbing or drainage on the premises is in a condition, or functions in a way, that constitutes a danger or health risk to occupiers of the premises or the public; and
- section 132 of the *Local Government Act 2009* to enter a property—
 - a. to inspect the property in order to process an application made under any Local Government Act; or
 - b. ...; or
 - (c) to find out whether the conditions on which a permit or notice was issued have been complied with; or
 - (d) to inspect work that is the subject of, or was carried out under, a permit or notice.

However, it is noted that under the current and proposed plumbing and drainage framework all greywater use facilities in sewered areas must be monitored by local government, which provides a more proactive approach.

Summary of recommendations:

- C) The LGAQ requests that the Department of Housing and Public Works engage with local government and the LGAQ in drafting the new plumbing regulation (and plumbing code) requirements, including the types of on-site sewage facilities a local government must monitor in its local government area to ensure a balance between reactive and proactive approaches to monitoring.

3. Enforcement notices

Clause 147 of the Bill relates to contravening, or tampering with, an enforcement notice. Under this provision, the maximum penalty for contravening or tampering with an enforcement notice is 250 penalty units. The Explanatory Notes to the Bill state that '*this amount is consistent with the highest penalties under the Act*' and that '*it aligns contravention of an enforcement notice with other serious offences that involve acting outside of the plumbing and drainage framework...*'.

Plumbing or drainage work is still considered to be development under the *Planning Act 2016*. Currently, an enforcement notice given under the *Plumbing and Drainage Act 2002* (clause 118) is taken to be an enforcement notice given under the *Planning Act 2016*; with the maximum penalty for contravening an enforcement notice under the *Planning Act 2016* being 4500 penalty units (up from 1665 penalty units).

There is concern that by removing the link with the *Planning Act 2016* in relation to enforcement notices, the penalties associated with contravening or tampering with an enforcement notice under the plumbing and drainage framework are significantly lower than currently applied.

Summary of recommendations:

- D) The LGAQ recommends that the existing link between the *Plumbing and Drainage Act 2002* and the *Planning Act 2016* be re-established/maintained in the Bill (clause 147), such that enforcement notices under plumbing and drainage framework are taken to be an enforcement

notice under the *Planning Act 2016* or at least, consistent with the same penalties in relation to contravening, or tampering with, an enforcement notice.

4. Inclusion of a new definition for 'water service'

The LGAQ notes that a definition for 'water service' has been included in schedule 1 (Dictionary) of the Bill to clarify the services provided by a water service provider and the scope of a 'retail water service'.

The current *Plumbing and Drainage Act 2002* does not contain a definition of 'water service', and it appears the new definition of 'water service' that is used in the Bill, has been replicated from the *Water Supply (Safety and Reliability) Act 2008* and reads:

water service means—

- (a) water harvesting or collection, including, for example, water storages, groundwater extraction or replenishment and river water extraction; or
- (b) the transmission of water; or
- (c) the reticulation of water; or
- (d) drainage, other than stormwater drainage; or
- (e) water treatment or recycling.

The LGAQ is concerned that the scope of the definition is too broad for the plumbing and drainage work intended to be captured by the new legislation. For example, 'water harvesting or collection' such as groundwater extraction or replenishment and river water extraction, is not work that is appropriate in the context of plumbing and drainage.

In addition, water storages such as rainwater tanks are now only required with new houses and/or commercial buildings where a local government has been approved to opt-in to the Queensland Development Codes (QDC) for:

- residential buildings: Mandatory Part 4.2—Rainwater tanks and other supplementary water supply systems (QDC 4.2), and
- commercial buildings: Mandatory Part 4.3—Supplementary water sources (QDC 4.3).

Rainwater harvesting could be captured by the proposed definition included in the Bill and is sufficiently broad to also be outside the scope of relevant work regulated by the plumbing and drainage framework.

The definition of 'water service' included in AS-NZS 3500.0: 2003 Plumbing and drainage - Part 0: Glossary of terms is currently used in the plumbing and drainage framework and limits water services to the '*...pipework from the water main up to and including the outlet valves at fixtures and appliances*'.

Summary of recommendations:

- E) The LGAQ recommends that the proposed definition of 'water service' in the Bill, taken from the *Water Supply (Safety and Reliability) Act 2008*, be reconsidered and amended in the context of AS-NZS 3500.0: 2003 to ensure that it is appropriate for and aligned with the plumbing and drainage framework.