Speech By

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WATER LEGISLATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Mr PITT (Mulgrave—ALP) (12.45 pm): On behalf of the Labor opposition I rise to make a contribution to the debate of the Water Legislation (Miscellaneous Provisions) Amendment Bill 2014. I wish to advise that the opposition will not be opposing this bill and will support the bill's aims in principle. However, I will be raising some issues with which we have some concerns and outlining the parts of the bill that we do support.

The bill has three broad aims: one, to change the procedures of the water supply system to deal with emergencies in an expedited manner; two, to amend the governing procedures of category 1 water authorities under the Water Act; and, three, to amend the Water Efficiency Labelling and Standards Act 2005 to ensure state law faithfully mirrors the federal law under the intergovernmental Water Efficiency Labelling and Standards, or WELS, Scheme. I will address each aim in turn giving our comments and concerns in relation to each.

Over the past decade, Queensland has experienced severe flood and cyclone emergencies that have severely affected life and property. The speed at which emergencies develop can be fast and, as an opposition, we believe that the state should have the powers necessary to deal with emergencies and the threats to public safety that arise from natural disasters. These powers include the power to deal with threats to the water supply and threats to public safety from the water supply. That is why we are minded to support this bill's first aim to amend the procedures of the water supply system to deal with emergencies in a timely manner. In many emergency circumstances a timely manner may be measured in terms of hours, not days. This bill gives the minister, water suppliers and dam operators more flexibility and greater powers to act with urgency in the event of a flood emergency.

The bill effects this intention in several parts. Clauses 2 to 4 of this bill amend the Water Act 2000 to allow for an emergency water supply declaration by the minister to have immediate effect. The bill removes the Governor in Council approval and gazettal notice requirements for an emergency declaration. The life of such a declaration is also extended form 15 days to 20 days. Currently, the Water Act allows the Minister for Energy and Water Supply to prepare a water supply emergency declaration if the minister is satisfied there is a water supply emergency or a water supply emergency is developing. Under the declaration, the minister may require water service providers to carry out specified measures, for example, imposing water restrictions. During the State Development, Industry and Innovation Committee scrutiny of this bill, the removal of the Governor in Council approval and gazettal notice requirements for an emergency declaration was heavily scrutinised by committee members at the public briefing of the committee by senior officers of the Department of Energy and Water Supply. Departmental officers raised concerns that the Governor in Council approval process could take up to nine days and that would be much too long in the case of a flood emergency. Therefore, the amendments proposed by clauses 2, 3 and 4 of this bill are necessary to ensure that the state has the powers needed to deal with emergencies that affect the water supply system that arise from natural disasters and, thus, they have the opposition's support.

Clauses 38 to 40 of the bill amend the Water Supply (Safety and Reliability) Act 2008 to allow for water service providers to issue emergency supplier water supply restrictions with immediate effect. It was these amendments which raised the concerns of the committee as outlined in its report as to the implications that such immediacy of effect may have on water consumers unaware of the issue of emergency supplier water supply restrictions. The concern of the committee was highlighted in its only clarification contained within its report on this bill. The committee in its report sought advice from the department as to the specific steps that may be taken by a service provider to provide adequate notice of water restrictions in order to mitigate the risk of a person inadvertently committing an offence resulting from water restrictions taking immediate effect. The committee is right to raise this issue.

As a parliament, we should refrain from making laws which create offences which rest on certain variable conditions of which individuals may not be reasonably aware. However, my concern is mitigated on two counts. Firstly, clause 38 of the bill inserts a requirement into section 43 of the Water Supply (Safety and Reliability) Act 2008 that water service providers must broadcast notice of emergency supplier water supply restrictions by television, radio or other electronic media. In an emergency situation, this allows for an immediate communication of the restriction to the general population in the shortest possible time.

Secondly, under the same clause 38, the immediate application of emergency supplier water supply restrictions can only occur where the minister has made a water supply emergency declaration under the Water Act or if there is another urgent need. In all other circumstances the effect of the restrictions will only come into force the next day. On both counts the immediate application of emergency supplier water supply restrictions will only occur in an extraordinary situation where there is an urgent need, and in such cases notice of the restrictions will be made in as prompt and efficient a manner as possible. Given the emergency situation that would apply in such circumstances it is a reasonable trade-off, and the Queensland opposition believes clauses 38 to 40 of this bill are satisfactory.

I turn to clause 41 of the bill, which grants dam owners powers under the Water Supply (Safety and Reliability) Act 2008 to adopt alternative operating procedures during a flood event without approval from the chief executive. Such powers would only be permissible if the dam operator had attempted to contact the chief executive and had not received a response in a reasonable period of time. I note that during the public briefing to the committee from the departmental representatives, it was advised that the rationale for this amendment was to allow dam operators to take emergency action in catastrophic circumstances where communication with the department was not possible. In my view this is a prudent rationale for this proposed change.

Clause 42 of the bill grants the minister the power to make, with immediate effect upon notice to the dam owner, a declaration of a temporary full supply level for dams that operate under an approved flood mitigation manual without the need for a gazettal process. Such dams which currently operate under an approved flood mitigation manual are the Somerset, Wivenhoe and North Pine dams. In effect, the only dam owner affected by this amendment is Seqwater. The ministerial power to declare a temporary full supply level was first enacted in 2011 following the recommendations of the Queensland Floods Commission of Inquiry and has provided an effective mechanism to assist in managing the impacts of flood events in South-East Queensland. These powers were exercised multiple times during the 2012-13 wet season for both the Wivenhoe and North Pine dams, including on non-business days.

During the State Development Industry and Innovation Committee's scrutiny of this bill, they were advised by a representative of the Department of Energy and Water Supply during the public briefing that the previous gazettal notice process held up a pressing need in early 2013 for a declaration of a temporary full-supply level at North Pine Dam. Given this advice from the department, the Queensland opposition supports the streamlining of the temporary full supply level declaration process.

I now turn to the second aim of this bill: to amend the governing procedures for category 1 water authorities under the Water Act, namely, the Gladstone Area Water Board and the Mount Isa Water Board. While on balance the Queensland opposition supports these governance changes for category 1 water authorities, there is one change that gives me cause for concern. Clause 11 of the bill amends section 580 of the Water Act to remove the requirement for category 1 water authorities to give notice when buying or selling property of more than $1 million. The category 1 water authorities of the Gladstone Area Water Board and the Mount Isa Water Board both have large holdings of assets as set out in their most recent public annual reports of 2012-13. In the case of Gladstone, the asset holdings of its water board are in excess of $555 million. In the case of Mount Isa, the asset

holdings of its water board are in excess of $116 million. These are organisations with significant financial worth, and prudence suggests that the minister maintain oversight of these boards. On this basis there is merit in keeping the $1 million notice threshold for buying or selling property.

I note that the same clause also amends and requires category 1 water authorities to notify the minister of all significant actions whether or not such action is specified in its performance plan. This requirement retains ministerial oversight on the actions of category 1 water authorities, albeit on another formulation, and this on balance makes clause 11 satisfactory.

I now turn to the final aim of this act: amending the Water Efficiency Labelling and Standards Act 2005 to ensure state law faithfully mirrors the federal law under the Intergovernmental Water Efficiency Labelling and Standards, or WELS, scheme. The WELS scheme is a good example of the states and the Commonwealth working together with their respective constitutional responsibilities to deliver practical outcomes for all Australians. In 2004 the Commonwealth, state and territory governments agreed to establish a national water efficiency labelling scheme in the National Water Initiative. The following year the Commonwealth, state and territory governments entered into the Water Efficiency Labelling and Standards Intergovernmental Agreement, creating the WELS scheme. The scheme was established by the Commonwealth Water Efficiency Labelling and Standards Act 2005. States and territories enacted equivalent legislation which addresses those matters outside the Commonwealth's constitutional heads of power. The federal and state acts commenced over the course of 2005. Following an interim phase-in period, the scheme became mandatory on 1 July 2006.

The scheme's objectives are to conserve water supplies by reducing consumption through providing information to consumers about the water efficiency of products and by promoting the adoption of water-efficient technologies, including by setting minimum efficiency standards. These aims were keenly supported by the former Beattie government at that time, as it was a keen advocate of water conservation. The Water Efficiency Labelling and Standards Act 2005 had support from both the then National-Liberal opposition and the crossbench.

WELS was designed to improve the performance of the market for water-using products by increasing the sale of water-efficient products, thus contributing to water conservation. The WELS scheme provides for a single point of registration for WELS products and for the Commonwealth to be the regulator. On the demand side, the purpose of WELS is to guide consumers to more water-efficient appliances and fittings by providing information about water efficiency that would otherwise be difficult to obtain. The water efficiency star rating system, which the WELS scheme has made mandatory across Australia, is an excellent method for the provision of water efficiency that would otherwise be difficult to obtain.

After five years of operation, the Commonwealth government commissioned an independent review of the WELS scheme in 2010. The review found that the scheme was good public policy. A cost benefit analysis undertaken by the Institute for Sustainable Futures for the Commonwealth Department of the Environment, Water, Heritage and the Arts found that the scheme has generated water savings at a cost of $0.08 per kilolitre to $0.21 per kilolitre. This cost is cheaper than other measures with similar water savings aims; for instance, desalination can cost between $1.19 per kilolitre to $2.55 per kilolitre. The same study projected that over the period 2005-06 to 2020-21, WELS will reduce national water consumption by a total of 800 gigalitres, which is almost double the annual water consumption of greater Sydney.

The WELS scheme is a successful program and the Queensland opposition, as it did when it was in government, supports a commitment to maintain legislation that forms part of a national scheme for water efficiency labelling and standards. As a response to the findings of the independent review, the Commonwealth and all states and territories agreed to changes to the governance, compliance and administration of the scheme, including measures to improve the level of cost recovery from product registration fees and the introduction of civil penalties. The Commonwealth Act was amended in 2012 and 2013 in response to the recommendations of the independent review of 2010. Clauses 28 to 36 of this bill now amend the Queensland Water Efficiency Labelling and Standards Act 2005 to mirror the changes to the Commonwealth act to ensure the scheme in Queensland applies as it does across the nation. The Queensland opposition, consistent with its commitment to the WELS scheme, supports these amendments. I note that the applied provisions legislative method to ensure uniformity of laws is contemplated by clauses 28 to 36. This method applies the Commonwealth WELS legislation as laws of the state of Queensland. This approach to achieve uniformity with the Commonwealth act has also been adopted by other states and territories including New South Wales, Tasmania and South Australia; however, as with other jurisdictions, the amendments provide for the state to modify the effect of the Commonwealth act by subordinate legislation if required.

Clause 35 of the bill also requires that the Queensland Parliament be informed of any changes to the Commonwealth WELS Act and any regulations in force under that Act as it applies in Queensland. Given these safeguards, these amendments are satisfactory to ensure the implementation of uniform state and federal legislation for this scheme without unduly impinging the sovereignty of this parliament.

Madam Speaker, the Labor opposition will support sensible legislation introduced by the government where it is in the best interests of Queenslanders. This bill has several varying aims. We as an opposition have considered the bill according to its aims, and on balance we are satisfied that it is in best interest of Queenslanders.