

# Government Response to the Environment, Agriculture, Resources and Energy Committee

## Report No 8

### *South East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Bill 2011*

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The Committee's recommendations:

#### Recommendation 1

*The committee recommends that the Bill be passed.*

**Response:** The Government supports this recommendation

#### Recommendation 2

*The committee recommends that the Minister provide clarifications and assurances sought by the committee in relation to the points raised.*

The Government has considered the Committee's comments and can advise as follows on the matters raised:

##### 2.1 Committee comment:

*The committee resolved to table this report at a date earlier than the reporting date of 5 April 2012.*

**Response:** The Government supports this recommendation.

The Government supports this recommendation. The Government appreciates the speed with which the Committee has considered the issues contained in the Bill and provided its report.

##### 2.2 Committee comment:

*The committee seeks the Minister's assurance that retransfer schemes may be amended to provide for necessary changes to assets, liabilities and employees between April 2012 and 1 July 2012.*

**Response:** Supported in principle, but no Bill amendment required.

The Government supports the Committee's concern in principle and can assure the Committee that the Bill has adequate measures to deal with changes to assets, liabilities and employees that may occur between April 2012 and 1 July 2012 and that the Minister can provide these assurances to the Committee.

The Bill does not provide for the retransfer scheme to be amended or re-made for changes to assets, liabilities and employees between April 2012 and 1 July

2012. Rather, the withdrawn councils and Allconnex may agree in the retransfer scheme itself how they wish these types of matters to be dealt with. The retransfer scheme framework under the Bill is sufficiently flexible to allow this to occur. However, the Minister has powers to make retransfer notices (s.92BC) or give retransfer directions (s.92BD) to correct any errors or omissions identified.

### **2.3 Committee comment:**

***The committee seeks the assurance of the Minister that the Minister's ability to override the default provision in proposed section 92BI ensures that the parties are not unduly disadvantaged in the retransfer of assets and liabilities.***

**Response: Supported in principle, but no Bill amendment required.**

The Government supports the Committee's concern in principle and can assure the Committee that if a party is disadvantaged by the application of the default provisions under the proposed sections 92BI(2) and 92BI(3), the Minister has the ability to address that disadvantage by a retransfer notice or a retransfer direction.

It should be noted that the withdrawn councils and Allconnex have the capacity to avoid any potential disadvantage that may be caused by the default provisions by reaching an agreement under the retransfer scheme on how Allconnex's assets and liabilities will be retransferred. It is only if the parties are unable to agree under the retransfer scheme (for whatever reason), that the default provisions in sections 92BI(2) and 92BI(3) will operate. The proposed section 92BI(4) provides that despite section 92BI(2) and 92BI(3), the Minister may change the default successor under those sections by a retransfer notice or a retransfer direction.

### **2.4 Committee comment:**

***The committee seeks assurance from the Minister that the default provisions apply to unpaid water charges where there is no agreement between the parties as to how the unpaid charges are to be proportioned.***

**Response: Supported in principle, but no Bill amendment required.**

The Government supports the Committee's concern in principle and can assure the Committee that the default provisions apply to unpaid water charges where there is no agreement between the withdrawn councils and Allconnex as to how the unpaid charges are to be proportioned.

The default provisions apply to unpaid water charges where there is no agreement between the withdrawn councils and Allconnex as to how the unpaid charges are to be proportioned. Section 92BH provides that, if no retransfer document provides for who is Allconnex's successor in law for an unpaid water charge, the withdrawn councils are Allconnex's proportional joint successors for the charge.



**2.5 Committee comment:**

***The committee seeks assurance from the Minister that a definition of withdrawal costs for the purposes of a regulation will be developed in consultation with the parties and with assistance from QWC.***

**Response: Supported in principle, but no Bill amendment required.**

The Government supports the Committee's concern in principle and can assure the Committee that sufficient measures are provided for in the Bill to adequately determine withdrawal costs.

The Queensland Water Commission has already circulated a draft paper, undertaken individual consultation with the withdrawn councils and conducted a workshop with the withdrawn councils and Allconnex on the proposed development of a withdrawal costs regulation. Responses to the draft paper have been received from the withdrawn councils and Allconnex and are currently being considered by the Queensland Water Commission. Given the proximity of the caretaker period, the finalisation of the regulation is likely to need to await a new Government decision.

The Councils however, could agree an approach based on the consultation that has occurred to date. Therefore a regulation, while providing additional clarity, would not be needed.

Additionally, the Bill already contains a 'definition' of withdrawal costs (Section 92BW) and provides for an arbitration process if there are disputes about withdrawal costs. The regulation, if made, will only be an aide to provide further clarity as contemplated in Section 92BW(1)(h) and Section 92BW(2)(d).

**2.6 Committee comment:**

***The committee seeks the Minister's assurance that the QCA requirements will not impose unacceptable financial burdens on water prices and ratepayers.***

**Response: Supported in principle, but no Bill amendment required.**

The Government supports the Committee's concern in principle and can assure the Committee that the Queensland Competition Authority (QCA) requirements are justified and will not impose unjustified financial burdens on water prices and ratepayers.

The Bill allows for the withdrawn councils to be subject to price monitoring by prescribing them as monopoly businesses under the relevant QCA regulation. However, water and wastewater prices remain a key concern within the Queensland community. It is important the community is informed about the costs of supply and that water entities manage their costs in a prudent and efficient manner, including new capital expenditure which has a long-term price impact. The purpose of the QCA price monitoring requirement

is to provide an independent oversight of prices for the ultimate protection of ratepayers.

The Queensland Government has decided that from 1 July 2013, Unitywater and Queensland Urban Utilities (QUU) will continue to be subject to price monitoring to be undertaken by the QCA. These arrangements, from 1 July 2013, will also apply to the council water businesses of Gold Coast, Logan and Redland City Councils which will be operational from 1 July 2012, to ensure they are subject to the same degree of transparency as the distributor-retailers who are to meet the same QCA requirements.

Nevertheless, recognising the fact that time is required for the withdrawn councils to re-establish their water businesses, the QCA will not have a price monitoring role for Gold Coast, Logan and Redland City Councils during 2012-13 taking account that:

- 2012-13 will be the first year of operation for the Councils businesses; and
- the current Consumer Price Index (CPI) cap on distribution and retail prices will apply for 2012-13.

#### **2.7 Committee comment:**

***The committee seeks assurances from the Minister that the Bill will be amended to provide for the retrospective application of section 92BS and section 92CM.***

**Response: The Government supports this recommendation**

The Minister for Energy and Water Utilities will move amendments during consideration in detail to clauses 23 and 77 of the Bill to provide for the retrospective application of proposed sections 92BS and 92CM.

This amendment will protect Allconnex and the withdrawn councils in respect of any exchange of information which has been made since the introduction of the Bill.

#### **2.8 Committee comment:**

***The committee seeks the Minister's assurance that the Bill will be amended to provide Allconnex Water with adequate protection for actions taken or decisions made in connection with the proposed retransfer prior to the Bill taking effect.***

**Response: The Government supports this recommendation**

The Minister for Energy and Water Utilities will move amendments during consideration in detail to clause 23 of the Bill to provide Allconnex with adequate protection for actions taken or decisions made in connection with the proposed retransfer prior to the Bill taking effect.

Specifically, the amendments will clarify section 92CM of the Bill so that actions taken in contemplation of a retransfer scheme or to implement a