Water and Other Legislation Amendment Bill 2007

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the *Water and Other Legislation Amendment Bill 2007.*

Policy Objectives

The objectives of the Bill are to amend the:

- *Water Act 2000,* the *Body Corporate and Community Management Act 1997,* the *Local Government Act 1993,* the *Plumbing and Drainage Act 2002* and the *Residential Tenancies Act 1994* to:
    - implement a range of demand management measures in the south-east Queensland (SEQ) region to address the continuing drought and contribute to long-term sustainable water use;
    - implement a range of short and long-term demand management measures in areas outside the SEQ region also experiencing water supply issues because of drought; and
    - contribute to long-term sustainable water use in areas not experiencing drought.
- *Integrated Planning Act 1997* and the *Water Act 2000* to:
    - enable the full and effective implementation of several resource operations plans due to commence in late 2007 or early 2008, and make minor technical amendments.

- *Lake Eyre Basin Agreement Act 2001* to:
    - give effect to the Second Amending Agreement regarding the Lake Eyre Basin Intergovernmental Agreement.
- *Land Act 1994* to:
    - ensure that relevant provisions of the Land Act are consistent with the Commonwealth's *Native Title Act 1993*.
- *Land and Other Legislation Amendment Act 2007* and *Water Amendment Act 2005* to:
    - make minor technical amendments.
- *Murray-Darling Basin Act 1996* to:
    - give effect to the Murray-Darling Basin Agreement Amending Agreement 2006.

Reasons for the Policy Objectives

Demand management measures

South-east Queensland (SEQ) is experiencing the effects of the worst drought on record. Despite recent moderate inflows from rain in August and September 2007, the combined level in the region's major water supply storages remains at an historic low. Significant water savings have been made by the community and business to date, however managing demands on these water supplies is a critical issue and further savings must be made to ensure the security of region's water supply.

The Water Act established the Queensland Water Commission (the Commission) in May 2006 as an independent statutory authority responsible for advising Government on options to achieve safe, secure and sustainable water supplies in SEQ and other designated regions.

The Commission has developed a package of measures to address critical water supply issues in SEQ, including the establishment of a regional water grid for SEQ and associated institutional arrangements. In cooperation with a number of government departments and agencies the Commission has formulated a package of demand management and water efficiency measures to address immediate water supply issues in SEQ and to provide for longer term water security in the future.

Some measures contained in the Bill were originally released for public consultation in March 2007, at the same time that proposed level 5 and level 6 restrictions were foreshadowed.

Some areas of regional Queensland, outside the SEQ corner, are experiencing similar pressures on water supplies as a result of the prolonged drought. Measures in the Bill will assist in managing critical water supplies for urban use in the short-term and promote ongoing water use efficiencies for the longer term.

The Bill therefore implements a package of measures to address water security, both in the SEQ region and regional Queensland.

Integrated Planning Act 1997 and Water Act 2000

Assessable and self-assessable development

Since 2002, the *Integrated Planning Act 1997* (Integrated Planning Act) is the instrument through which the Department of Natural Resources and Water (NRW), regulates works that take or interfere with water. The Water Act is the instrument through which NRW gives the resource approval linked to those works. From time to time it is necessary to amend the Integrated Planning Act to ensure consistency with the resource management arrangements under the Water Act.

Changes to water allocations

The Water Act currently provides processes for dealing with two categories of changes to water allocations, these are:

- 'pre-assessed' changes permitted under water allocation change rules in a resource operations plan which follows a short-form process under section 129 of the Water Act; and
- other changes not 'pre-assessed' or mentioned in a resource operations plan which are considered through a long form process under section 130 of the Water Act. This process requires public notification and assessment against the water resource plan outcomes.

To enable more flexible management of water it is necessary to provide a mid-form process in the Water Act for dealing with a change to water allocation where certain elements of the change have been pre-assessed.

In some circumstances, the release of, or an amendment to, a resource operations plan will include provision for a water allocation holder to apply for a highly sought after change to a water allocation, for example changing the priority of a water allocation from medium priority to high

priority that will increase the security of the allocation. This may result in a large number of applications to change water allocations due to the perceived benefit of changing water allocations in this manner.

Currently, there is no process for the chief executive to determine the manner in which applications to change a water allocation under the Water Act are dealt with, consequently applications are dealt with on a first in first served basis. It is desirable to give the chief executive flexibility to elect to put in place a specific process to deal with applications in these circumstances.

Referral panel for water licences

Section 1004 of the Water Act enables the chief executive to establish a referral panel to provide advice in respect of a number of matters limited to draft resource operations plans and amendments to resource operations plans. However, it has been identified that there is benefit in allowing the chief executive to establish a referral panel to advise on matters about water licences which may be dealt with under an unallocated water process set out in a resource operations plan.

Minor technical amendments

A number of minor technical amendments are necessary for the effective implementation of water resource plans and resources operations plans, and for the effective operation of the Water Act.

Lake Eyre Basin Agreement Act 2001

The Lake Eyre Basin Intergovernmental Agreement (the Agreement) recognises the valuable ecosystems of the Lake Eyre Basin and their environmental, economic, social and cultural significance to the communities of the basin. The purpose of the Agreement is to provide for the cooperative management of the Basin's water and related natural resources across jurisdictions. Queensland has been an active party to the Agreement since its inception, and the *Lake Eyre Basin Agreement Act 2001* (Lake Eyre Basin Agreement Act) gives effect to this agreement.

In 2004 South Australia undertook a review of the boundaries of the basin area and proposed an amendment to include the South Australian portions of the Hay, Finke, Neales and Douglas catchments. The changes to the basin boundaries agreed through the Second Amending Agreement made on 23 January 2007 will not come into effect until the Queensland, South Australia and Northern Territory parliaments have passed legislation reflecting these changes.

Land Act 1994

Native title legislation relies upon the terms of an indigenous land use agreement to identify the person who should be the recipient of a deed or lease granted in exchange for the surrender of a native title interest in land. The current wording of section 18 of the *Land Act 1994* (Land Act) has recently led to a perception that the recipient may be any person (including a third party not associated with the native title holders). The amendments will clarify who may be the recipient of a deed or lease under the terms of an indigenous land use agreement, and help to ensure that the provisions of the Land Act are consistent with the *Native Title Act 1993* (Cwlth).

Murray-Darling Basin Act 1996

The amendments to the *Murray-Darling Basin Act 1996* (Murray-Darling Basin Act) will give effect to the Murray-Darling Basin Agreement Amending Agreement of 2006, as approved by the First Ministers of the parties to the original Agreement on 14 July 2006. The original Murray-Darling Basin Agreement was made in 1992 between the Commonwealth, New South Wales, Victoria and South Australia. Since then Queensland and the Australian Capital Territory have become signatories to the Agreement. The purpose of the Agreement is to promote and coordinate effective planning and management for the equitable, efficient and sustainable use of the water, land and environmental resources of the Murray-Darling Basin. The Agreement is embodied, in each party's jurisdiction, in an Act of Parliament.

The amending agreement was introduced because the parties to the Agreement wished to enhance business practices for the Murray-Darling Basin Commission's water business 'River Murray Water'. Queensland is not generally involved in the commission's water business and so the amendments have limited impact on or relevance to Queensland. However, concern was raised about Queensland's liability, as a party to the Agreement, for works in which it had no direct involvement, and the amending agreement also clarifies that Queensland has no liability in such circumstances.

How the Policy Objectives will be achieved

The policy is to be achieved by:

Demand management measures

The Bill will implement the following demand management measures that require amendments to primary legislation:

Water consumption information for tenants of residential rental properties

About one third of households receive no information about the amount of water consumed on the premises as owners are usually liable for the cost of the water supply and receive the water bill. This measure will provide a water consumption advice to tenanted residential properties that states the volume of water supplied to the premises during each billing period.

Recovery of water charges from tenants of residential rental properties

This measure will enable water consumption charges to be passed on to tenants but only if a lessor has installed water efficient devices and the residential tenancy agreement states that the water consumption charge is payable by the tenant. The ability to send a price signal to water users will provide an incentive for behavioural change to save water. An associated amendment will enable water leaks to be dealt with as 'emergency repairs' so tenants may arrange for repairs by a suitably qualified person if the lessor or their nominated emergency repair person cannot be contacted.

Regionally consistent approach to residential water billing

To promote awareness of water consumption, water service providers will be required to produce water bills showing comparative water use information and to comply with regular billing cycles if specified in the relevant regional guidelines.

Sub-metering of new multi-unit residential and non-residential premises

This measure will provide for the mandatory installation of sub-meters in all new community title schemes (residential and non-residential) and buildings with two or more sole occupancy units under single title (of certain classes). Also, water service providers will be required to read and bill owners according to sub-meter readings. Ownership of sub-meters will vest with water service providers who will also be responsible for maintaining and replacing meters as necessary.

Restrictions on the use of groundwater taken from 'backyard' bores

This measure will give the Commission or a water service provider the power (subject to chief executive approval) to impose water restrictions on the use of water from 'backyard' bores (that are no more restrictive than existing restrictions on use of reticulated supply), where the groundwater is being taken from the same source that supplies or supplements the town water supply.

Expanding the allowable uses of treated greywater

Amendments in the Bill will expand the allowable uses for appropriately treated greywater (from systems up to a capacity of 50 kL per day) for outdoor and indoor uses; the amendment will also remove the restriction on classes of buildings that may use greywater.

Controlled trials of treated blackwater on-site in sewered areas

Amendments contained in the Bill, once commenced, will allow for the trialing of onsite blackwater treatment systems (in sewered areas) for assessment as to the reliability of the systems to meet stringent water quality standards, to safely allow for both internal (eg, toilet flushing) and external uses.

Providing water service providers in SEQ with powers to reduce flow following a breach of commission water restrictions

This measure will extend an existing power under the Water Act enabling water service providers to reduce flow to domestic premises where there are repeated breaches of commission water restrictions; a written notice must first be given to the owner or occupier to allow them an opportunity to stop the contravention and the flow may only be reduced to a minimum required for health and sanitation.

Critical water supply restrictions

This measure only relates to areas outside the SEQ region, or a designated region, and will enable the chief executive of NRW to manage urban water supplies where a significant threat to an area's sustainable and secure water supply exists. The measure will enable the chief executive, after consulting with the relevant water service providers, to direct that restrictions be imposed to conserve water.

Permanent Commission water restrictions

The Bill makes a minor amendment to clarify that the Commission has the power to impose water restrictions at all times and not only during drought.

Outdoor water use conservation plan

This measure only relates to areas outside the SEQ region, or a designated region, and requires water service providers to have an outdoor water use conservation plan for reducing outdoor water use and promoting efficient water use by customers. This new requirement aims to ensure urban water users are applying water efficient practices at all times and not only during drought. Examples of the types of practices that may be included in a plan

include restricting the use of garden sprinklers during the middle of the day, education programs and rebate schemes for water efficient devices.

Powers of entry for SEQ local governments to monitor and enforce compliance with commission water restrictions

A new power of entry will enable SEQ local government water service providers to monitor and enforce compliance with commission water restrictions without the need for an approved inspection program, council resolution or publication of a notice.

The Bill will also clarify existing provisions relating to water efficiency management plans, the power to restrict the use of water in a rainwater tank connected to the reticulated supply and compliance with a system operating plan.

Integrated Planning Act 1997 and Water Act 2000

Assessable and self-assessable development

The Bill includes an amendment to schedule 8, part 2, item 1 of the Integrated Planning Act to provide a new trigger for operational works that allow taking or interfering with water to be made self-assessable development under a water resource plan, wild river declaration or as prescribed under a regulation.

Changes to water allocations

The Bill will amend section 1014 of the Water Act to provide for a regulation to state a process to deal with applications to change a water allocation. This amendment will enable the chief executive the flexibility to elect to put in place a specific process to deal with applications in an equitable and transparent manner in these circumstances.

The Bill will also amend the Water Act to include a new process for dealing with an application for an assessed change to a water allocation in accordance with assessed change water allocation change rules under a resource operations plan. This amendment will assist water users to better identify the issues they will need to address before a water allocation change application can be considered. The amendment will also significantly cut the costs, for a water user, of making an application and reduce departmental resources necessary to process the application as elements of these applications will have been pre-assessed.

Referral panel for water licences

Section 1004 of the Water Act will be amended to extend the functions of referral panels established by the chief executive. This will enable panels

to advise on matters about the granting of a water licence under section 212 of the Water Act and the granting of an application under section 223 of the Water Act.

Minor technical amendments

The Bill includes minor technical amendments for the effective implementation of water resource plans and resource operations plans. For example, it is proposed to amend the definition of monitoring equipment to explicitly include a meter and include equipment for assessing the effects of taking water. This will allow for the measurement of salinity in groundwater areas. Other minor amendments clarify definitions and enhance the operation of the Water Act. For example, consistent with the recommendations of the Service Delivery and Performance Commission Report 'Review of the roles and responsibilities of the Department of Natural Resources, Mines and Water, the Environmental Protection Authority and the Department of Primary Industries and Fisheries' of February 2007, amending the definition of 'hazardous waste' in the Water Act will clarify that it is not the role of NRW to regulate ash dams associated with power generation.

Lake Eyre Basin Agreement Act 2001

The Lake Eyre Basin Agreement Act amendments will allow the changes to the basin boundaries agreed by the Queensland, South Australia and Northern Territory governments to come into effect.

Land Act 1994

The amendments will clarify who may be the recipient of a deed or lease under the terms of an indigenous land use agreement, and ensure that relevant provisions of the Land Act are consistent with the *Native Title Act 1993* (Cwlth).

Land and Other Legislation Amendment Act 2007 and Water Amendment Act 2005

The minor technical amendments will clarify certain uncommenced provisions, of the Land and Other Legislation Amendment Act and once commenced, will contribute to the effective operation of the Land Act.

The amendment to the Water Amendment Act will ensure that parts of an uncommenced provision, referring to water licence holders in areas which cannot be accurately defined, are omitted as alternative arrangements for these water licence holders are to be applied.

Murray-Darling Basin Act 1996

The Murray-Darling Basin Act amendments will allow the amending agreement of 2006 to come into effect.

Alternatives to the Bill

There are no alternatives to the amendments made by this Bill.

Estimated administrative Cost to the Government for implementation

Most of the measures in the Bill will be implemented by the relevant departments or agencies responsible for the legislation from within existing resources.

Consistency with Fundamental Legislative Principles

Section 1101A is inserted into the *Local Government Act 1993* (Local Government Act) to assist SEQ local government water service providers with monitoring and enforcing compliance with commission water restrictions; for which they have delegated responsibility for enforcing. Under the section, an authorised person may enter a place at any reasonable time of the day or night if the person reasonably suspects a commission water restriction is being, or has been, contravened at the place. An authorised person may also enter a non-residential place at any reasonable time, if the entry is necessary to conduct an audit or inspection to monitor compliance with commission water restrictions. However, the provision requires the authorised person to identify himself or herself to an occupier if the occupier is present and state the purpose of the entry, unless it would frustrate the purpose of the entry. Entry under the section also does not authorise entry inside any part of a building or structure used for residential purposes. Existing provisions under the Local Government Act provide for compensation to be paid should damage arise from exercising the entry powers.

The insertion of new section 384A into the Water Act is to facilitate and implement the mandatory installation of 'sub-meters' in multi-unit residential and non-residential buildings and complexes from 1 January 2008. Water service providers who provide retail water services will own the meters and be responsible for reading and charging customers accordingly, and maintaining and replacing meters as necessary. New section 384A ensures water service providers have adequate powers to read meters, check the accuracy of meters and maintain or replace meters.

However, the entry power does not authorise entry to any part of a place used for residential purposes and entry may only be made at a reasonable time. Also, compensation is payable should damage arise from exercising the entry powers; and authorised persons must produce and display identity cards.

Section 384 of the Water Act is amended to clearly establish that entry under the section may be made for the purpose of installing a device to reduce flow of water to premises under section 457 of the Water Act. Section 457 of the Water Act currently empowers a water service provider to reduce water flow to premises to the necessary minimum for health and sanitation if, after giving written notice, the owner or occupier continues to contravene a service provider water restriction or not pay a rate or charge for the service. An amendment to section 457 will extend the power to restrict flow to include continued contravention of commission water restrictions. Currently, where commission water restrictions apply in the SEQ region, they are the only water restrictions that apply, and water service providers have been delegated responsibility for monitoring and enforcing compliance with the restrictions. Although there is no merits appeal in relation to the service provider's action, review under the *Judicial Review Act 1991* is not excluded. Compliance with water restrictions is paramount to a water service provider's ability to manage their current water supplies; this is particularly critical in the current water supply emergency in the SEQ region. Action to restrict flow is considered a measure of last resort and is considered justified as an owner or occupier has an opportunity to remedy repeated breaches before the action is taken.
Consultation

Community and industry stakeholders

The following groups have been consulted in respect of various aspects of the Bill:

- Local Government Association of Queensland including the Project Management Group and Technical Working Group
- Commerce Queensland
- Master Builders Association
- Master Plumbers' Association of Queensland
- Housing Industry Association
- AgForce
- Queensland Conservation Council

- Queensland Farmers Federation

Government

Representatives of the following departments and agencies were consulted in relation to the Bill:

- Queensland Water Commission
- Department of Infrastructure and Planning
- Department of The Premier and Cabinet
- Queensland Treasury
- Office of the Coordinator-General
- Department of Justice and Attorney General
- Environmental Protection Agency
- Department of Local Government, Sport and Recreation
- Residential Tenancies Authority
- Department of Primary Industries and Fisheries
- Queensland Health

Results of consultation

Community and industry stakeholders

The majority of the groups consulted provided a positive response to the proposed measures in the Bill.

Government

All departments and agencies consulted support the Bill.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 provides that the short title of the Act is the *Water and Other Legislation Amendment Act 2007*.

Commencement

Clause 2 provides for commencement of provisions of the Act following passage.

Part 2 Amendment of Body Corporate and Community Management Act 1997

Act amended in pt 2

Clause 3 provides that part 2 amends the *Body Corporate and Community Management Act 1997*.

Amendment of s 20 (Utility infrastructure as common property)

Clause 4 amends section 20. This amendment is part of a number of changes to primary legislation needed to facilitate and implement mandatory 'sub-metering' from 1 January 2008. 'Sub-meters' is the common term used to describe individual meters within multi unit complexes; the term also differentiates from 'master meters' that measure the supply of water to a complex as a whole. Under the current law, utility infrastructure (including water meters) is 'common property' that is owned by the body corporate, unless it falls within an exclusion under current section 20 subsections (1) and (2).

The policy intent is that for all new community titles schemes established after 1 January 2008, water meters will be owned by the water service

provider supplying water to the scheme, who will also be responsible for maintaining and replacing the meters, rather than being owned and maintained by the body corporate.

Clause 4 therefore amends section 20(1) to provide that common property for a community titles scheme does not include utility infrastructure that is a device for measuring the reticulation or supply of water (a water meter) for a community titles scheme established after 1 January 2008, and in relation to which a compliance request is made under the *Plumbing and Drainage Act 2002* after 31 December 2007.

Amendment of s 196 (Utility services not separately charged for)

Clause 5 amends section 196. The amendment to section 196 also relates to mandatory 'sub-metering' in new community titles schemes as from 1 January 2008. The intent of this amendment is to ensure that the water service provider supplying water to the community title scheme charges individual lot owners for the supply of water to the lot as measured by the meter for the lot and the body corporate for the supply of water to the common property as measured by the meter for the common property.

Part 3 Amendment of Integrated Planning Act 1997

Act amended in pt 3

Clause 6 provides that part 3 amends the *Integrated Planning Act 1997* (Integrated Planning Act).

Amendment of sch 8 (Assessable development and self-assessable development)

Clause 7 amends schedule 8 of the Integrated Planning Act, in part 1 (Assessable development) and part 2 (Self-assessable development).

Amendment of schedule 8, part 1, table 4, item 3(a) (Operational work for taking or interfering with water)

Subclause (1) amends schedule 8, part 1, table 4, item 3(a) to include a reference to 'lake', to clarify that operational works under the *Water Act*

2000 (Water Act) for taking or interfering with water from a dam constructed on a watercourse or a lake are assessable development.

Subclause (1) further amends schedule 8, part 1, table 4, item 3(a) to clarify that operational works mentioned in this item are assessable development unless they are mentioned as self-assessable development. This clarification is now necessary as a new self-assessable development trigger for schedule 8, part 2, table 4, item 1 is inserted by this Bill.

Amendment of schedule 8, part 1, table 4, item 3(c)(i) and (ii) (Operational work for taking or interfering with water)

Subclause (2) amends schedule 8, part 1, table 4, item 3(c)(i) and (ii) to provide that regulations to prescribe operational works that take or interfere with overland flow water or subartesian water to be assessable development can only be made under the Water Act or the Integrated Planning Act.

Amendment of schedule 8, part 2, table 1, item 3 (Building work for declared fish habitat area)

Subclause (3) amends schedule 8, part 2, table 1, item 3 to include building work in a declared fish habitat area as self-assessable development, if the work is reasonably necessary for the construction of structures, where the impact on the area is minor. This amendment is required to implement a code for self-assessable development for minor impact new works in a declared fish habitat area or involving the removal, destruction or damage of marine plants. The works subject to this amendment are currently assessable against the *Fisheries Act 1994* (Fisheries Act).

Amendment of schedule 8, part 2, table 4, item 1 (Operational work for taking or interfering with water)

Subclause (4) amends schedule 8, part 2, table 4, item 1 to ensure that the leading words are consistent with those in schedule 8, part 1, table 4, item 3 and accurately reflect self-assessable items related to taking or interfering with water.

Amendment of schedule 8, part 2, table 4, item 1 (Operational work for taking or interfering with water)

Subclause (5) is necessary to renumber schedule 8, part 2, table 4, items 1(b)(i) and (ii) as items 1(b)(ii) and (iii) as a new item 1(b)(i) is being inserted before these items.

Amendment of schedule 8, part 2, table 4, item 1(b) (Operational work for taking or interfering with water)

Subclause (6) amends schedule 8, part 2, table 4, item 1(b)(i) to include a new self-assessable development item. This item enables a water resource plan under the Water Act, a wild river declaration, or a regulation under the Integrated Planning Act or the Water Act to prescribe operational works that allow the taking or interfering with water in a watercourse, lake or spring, other than under section 20(2), (3) or (5) of the Water Act to be self-assessable development.

Amendment of schedule 8, part 2, table 4, item 1 (Operational work for taking or interfering with water)

Subclause (7) amends schedule 8, part 2, table 4, items 1(b)(ii) and (iii), as renumbered under subclause (5), to provide that regulations to prescribe operational works that take or interfere with overland flow water or subartesian water to be self-assessable development may only be made under the Water Act or the Integrated Planning Act.

Amendment of schedule 8, part 2, table 4, item 2 (Operational work for waterway barrier works)

Subclause (8) amends schedule 8, part 2, table 4, item 2 to broaden the existing self-assessable codes for waterway barrier works (items (a) and (b)) and implement a new self-assessable code for regularly rebuilt waterway barriers (item (c)). The works subject to the new code are currently assessable against the Fisheries Act.

Amendment of schedule 8, part 2, table 4, item 3 (Operational work for works in a declared fish habitat area)

Subclause (9) amends schedule 8, part 2, table 4, item 3 to include operational work completely or partly within a declared fish habitat area to be self-assessable if the works are reasonably necessary for the construction or placement of structures, where the impact on the area is minor; and public benefit works. This amendment is required to implement a code for self-assessable development for minor impact new works in a declared fish habitat area or involving the removal, destruction or damage of marine plants. The works subject to this amendment are currently assessable against the Fisheries Act.

Amendment of schedule 8, part 2, table 4, item 4 (Operational work for the removal, destruction or damage of marine plants)

Subclause (10) amends schedule 8, part 2, table 4, item 4 to include operational work that is the removal, destruction or damage of marine

plants to be self-assessable if the works are reasonably necessary for the construction or placement of structures, where the extent of marine plant disturbance is minor; and for other minor impact works such as runnelling, Lyngbya removal and collection of marine plants for fishing bait. This amendment is required to implement a code for self-assessable development for minor impact new works in a declared fish habitat area or involving the removal, destruction or damage of marine plants. The works subject to this amendment are currently assessable against the Fisheries Act.

Amendment of sch 10 (Dictionary)

Clause 8 amends the dictionary to insert a definition for 'lyngbya' which is defined to mean a plant of the genus *Lyngbya.*

Part 4 Amendment of Lake Eyre Basin Agreement Act 2001

Act amended in pt 4

Clause 9 provides that part 4 amends the *Lake Eyre Basin Agreement Act 2001.* The amendments give effect to the intergovernmental agreement changes arising from the Lake Eyre Ministerial Forum conducted out of session in November 2006 and agreed through the Second Amending Agreement dated 23 January 2007. The amendments will provide for the inclusion of the South Australian portions of the Hay, Finke, Neales and Douglas catchments of the Lake Eyre Basin.

Amendment of s 2 (Definitions)

Clause 10 inserts a definition for 'second amending agreement' in section 2 and amends the definition of 'agreement' to include the 'second amending agreement'.

Amendment of s 3 (Approval and ratification of agreements)

Clause 11 amends section 3 to insert a new paragraph (c) to provide for the second amending agreement.

Insertion of new sch 3 – Second Amending Agreement

Clause 12 inserts a new schedule 3 to include the Second Amending Agreement.

Part 5 Amendment of Land Act 1994

Act amended in pt 5

Clause 13 provides that part 5 amends the *Land Act 1994* (Land Act).

Amendment of s 18 (Governor in Council may exchange land)

Clause 14 amends section 18 to remove the reference to a native title interest in land. Native title interests in land are now dealt with in new section 18A inserted by this Bill.

Insertion of new s 18A – Grant or lease of unallocated State land in consideration of surrender of native title interest

Clause 15 inserts a new section 18A to improve the operation of the law in support of the *Native Title Act 1993* (Cwlth) and clarifies the entity to which a grant of a lease or a deed may be made where an indigenous land use agreement contemplates a grant in consideration for the surrender of native title to the State.

Under section 18 of the Land Act, the Governor in Council, may, by agreement with a registered owner, a lessee or the holder of a native title interest in land, grant or lease unallocated State land in exchange for freehold land, a lease or a native title interest in land. Currently, section 18 limits a grant of a new deed or lease to the holder of the native title interest in land who surrendered that interest.

This limitation is not required by the *Native Title Act 1993* (Cwlth). That Act, in particular sections 24BE, 24CE and 24DF, supports that:

- the terms of an indigenous land use agreement may relate to the extinguishment of native title rights and interests in relation to land or waters in a particular area by the surrender of the rights and interests to the State of Queensland; and
- the surrender may be given for consideration - including in contemplation of a grant of a freehold estate or a statutory

interest in any land (for example, a lease issued under the Land Act) - and subject to any conditions.

In effect, new section 18A provides that the grantee entity must be the registered native title body corporate where there is a determination that native title exists and the associated registered native title body corporate surrenders the native title. In all other cases the section ensures that there is a sufficient relationship between any grantee entity and those who surrender native title (a surrender group) under the indigenous land use agreement in contemplation of the grant.

Part 6 Amendment of Land and Other Legislation Amendment Act 2007

Act amended in pt 6

Clause 16 provides that part 6 amends the *Land and Other Legislation Amendment Act 2007* (Land and Other Legislation Amendment Act).

Amendment of s 16 (Replacement of s 18 of *Act No. 81 of 1994*)

Clause 17 amends section 16 of the Land and Other Legislation Amendment Act. Section 16 amends section 18 of the *Land Act 1994* (Land Act) to clarify the powers of the Governor-in-Council and the Minister with regards to an exchange of land.

Subclauses (1) and (3) remove the reference to the holder of native title interest in land. Native title interests in land will be dealt with under new section 18A inserted by this Bill.

Subclauses (2) and (4) correct incorrect cross references.

Amendment of s 27 (Amendment of s 36 of *Act No. 81 of 1994*)

Clause 18 amends section 27 to correct an incorrect cross reference.

Amendment of s 49 (Replacement of s 94 of *Act No. 81 of 1994*)

Clause 19 amends section 49 of the Land and Other Legislation Amendment Act. Section 49 amends section 94 of the Land Act and

replaces it with a new section 94 that clarifies the process of dedicating land administered under the Land Act as a road for public use.

Subclause (1) corrects an incorrect cross reference to a road opening application.

Subclause (2) removes section 94(4) which provides a specific power to impose conditions on an approval for a road opening application. This has been more appropriately dealt with under section 420I, inserted in the Land Act by section 190 of the Land and Other Legislation Amendment Act. Section 420I clarifies that the decision-maker may, when making a decision in regards to an application, condition the approval.

Subclause (3) renumbers sections 94(5) and 94(6) as sections 94(4) and 94(5) to reflect the removal of section 94(4).

Amendment of s 54 (Replacement of ch 3, pt 2, divs 4 and 5 of *Act No. 81 of 1994*)

Clause 20 amends section 54 of the Land and Other Legislation Amendment Act. Section 54 replaces chapter 3, part 2 and divisions 4 and 5 of the Land Act with a new division dealing with the permanent closure of roads.

Subclause (1) removes section 109A(3) which provides a specific power to impose conditions on an approval for an application for the simultaneous opening and closure of a road within or adjoining a deed of grant. This has been more appropriately dealt with under section 420I, inserted in the Land Act by section 190 of the Land and Other Legislation Amendment Act. Section 420I clarifies that the decision-maker may, when making a decision in regards to an application, condition the approval.

Subclause (2) renumbers sections 109A(4) to 109A(6) as sections 109A(3) to 109A(5) to reflect the removal of section 109A(3).

Subclause (3) provides for a cross reference as a consequence of the removal of section 109A(3).

Subclause (4) clarifies that a road being closed must be for the replacement, not the repositioning, of a road being opened.

Subclause (5) removes section 109B(4) which provides a specific power to impose conditions on an approval for an application for the simultaneous opening and closure of a road in trust land or leased land. This has been more appropriately dealt with under section 420I, inserted in the Land Act by section 190 of the Land and Other Legislation Amendment Act which

clarifies that the decision-maker may, when making a decision in regards to an application, condition the approval.

Subclause (6) renumbers sections 109B(5) to 109B(7) as sections 109B(4) to 109B(6) to reflect the removal of section 109B(4).

Subclause (7) provides for a cross reference as a consequence of the removal of section 109B(4).

Amendment of s 91 (Amendment of s 180 of *Act No. 81 of 1994*)

Clause 21 amends section 91 of the Land and Other Legislation Amendment Act. Section 91 replaces section 180 of the Land Act (Cancellation or surrender of a permit to occupy unallocated State land, a reserve or a road) with new sections 180 to 180H.

Clause 21 replaces a reference to the Minister with the chief executive. Under section 177 of the Land Act a permit to occupy is issued by the chief executive and the authority to cancel a permit to occupy rested with the chief executive under section 180 prior to the amendment. The reference to the Minister in the Land and Other Legislation Amendment Act was a drafting oversight.

Amendment of s 98 (Amendment of s 192 of *Act No. 81 of 1994*)

Clause 22 amends section 98 of the Land and Other Legislation Amendment Act. Section 98 amends section 192 of the Land Act to enable the Minister to grant a deferral of rent on the basis of evidence that the applicant for the deferral is receiving some other form of financial assistance under a State or Commonwealth scheme for a relevant hardship, for example, under the exceptional circumstances scheme.

Clause 22 rectifies a minor drafting oversight to clarify that section 98 omits and inserts text.

Amendment of s 143 (Amendment of s 290J of *Act No. 81 of 1994*)

Clause 23 amends section 143 of the Land and Other Legislation Amendment Act. Section 143 amends section 290J of the Land Act to clarify the requirements for registering a plan of subdivision under section 290J of the Land Act.

Clause 23 corrects an incorrect cross reference.

Amendment of s 199 (Insertion of new ch 9, pt 1D of *Act No. 81 of 1994*)

Clause 24 amends section 199 of the Land and Other Legislation Amendment Act. Section 199 inserts new part 1D (Transitional Provisions for Land and Other Legislation Amendment Act) into the Land Act.

New section 521E, which forms part of the new part 1D, allows for certain trust land that was held by a trustee representing the State on commencement of the section to be vested in the State and for that vesting to be registered by the chief executive.

Clause 24 clarifies that section 521E vests the trust land in the State as trustee of the land.

Amendment of s 203 (Amendment of sch 6 of *Act No. 81 of 1994*)

Clause 25 amends section 203 of the Land and Other Legislation Amendment Act which inserted definitions and amended existing definitions in schedule 6 of the Land Act.

Clause 25 clarifies that, under the definition of 'dedication notice', the dedication notice may be given to the chief executive or the registrar under the *Land Title Act 1994* (Land Title Act).

Amendment of s 207 (Amendment of s 51 of *Act No.11 of 1994*)

Clause 26 amends section 207 of the Land and Other Legislation Amendment Act. Section 207 amends section 51 of the Land Title Act to support the position that where public use land is identified for a community purpose and the plan is approved by the Minister, registration of the plan dedicates the identified land as a reserve for the community purpose shown.

Clause 26 clarifies section 207 to reflect that the plan is consented to, and not endorsed, by the Minister.

Part 7 Amendment of Local Government Act 1993

Act amended in pt 7

Clause 27 provides that part 7 amends the *Local Government Act 1993* (Local Government Act).

Insertion of new ch 15, pt 5, div 7A

Clause 28 inserts new division 7A (Monitoring commission water restrictions).

New Division 7 Monitoring commission water restrictions

This amendment is provided in response to claims made by local governments that efforts to enforce commission water restrictions are hampered by an inability to investigate allegations, in particular, when alleged breaches occur on private property.

This amendment will enable SEQ local governments to exercise existing post-entry powers already afforded under an approved inspection program under the Local Government Act without the need for a council resolution or publication of a notice.

New section 1101A – Power of entry for monitoring commission water restrictions

New subsection (1) provides that the section applies if an authorised person—

- reasonably suspects a commission water restriction is being, or has been, contravened at any place; or
- reasonably considers it is necessary to enter a non-residential place to conduct an audit or inspection to monitor compliance with a commission water restriction

New subsection (2) provides that, subject to new subsections (3) and (5), an authorised person may enter the place for the purpose of monitoring

compliance with commission water restrictions at any reasonable time of the day or night.

New subsection (3) provides that an authorised person must, or make a reasonable attempt, to identify himself or herself to an occupier in accordance with section 1088 of the Local Government Act before entering and tell the occupier the purpose of the entry.

New subsection (4) does not require the authorised person to take a step that may frustrate or otherwise hinder the purposes of the entry. For example, if the act of identifying themselves would frustrate or hinder the investigation of a complaint or reported breach of a commission water restriction, then the requirement on the authorised person to identify themselves, would not apply.

New subsection (5) provides that new section 1101A, in so far as it applies to residential premises, does not apply to a building or other structure, or the part of a building or other structure, used for residential purposes. This means that an authorised person is not authorised, under the section, to enter a house or unit or other dwelling, and may only enter the outdoor areas of a property.

New subsection (6) defines 'commission water restriction' and 'non-residential place' for the purpose of the section.

Amendment of s 1102 (General powers after entering places)

Clause 29 amends section 1102 to extend the application of the post entry powers under the section to new division 7A, that is, to an authorised person who enters a place to monitor commission water restrictions.

Part 8 Amendment of Murray-Darling Basin Act 1996

Act amended in pt 8

Clause 30 provides that part 8 amends the *Murray-Darling Basin Act 1996*. Amendments give effect to changes made to the Murray-Darling Basin Agreement of 1992 by the Murray-Darling Basin Amending Agreement of 2006. The changes reflect the wish of the parties to enhance business practices for the Murray-Darling Basin Commissions water business 'River Murray Water'. The Murray-Darling Basin Amending Agreement also

clarifies that Queensland has no liability for works in which it has had no direct involvement.

Amendment of long title

Clause 31 amends the long title and inserts a reference to the Australian Capital Territory, who is now a signatory to the Agreement.

Amendment of s 2 (Definitions)

Clause 32 amends section 2 to provide definitions for 'agreement', 'first amending agreement' and 'original agreement' to enable differentiation between the three agreements.

Amendment of s 5 (Approval of agreement)

Clause 33 amends section 5 to insert the word 'original' before the word agreement.

Insertion of new s 5A – Approval of first amending agreement

Clause 34 inserts a new section 5A to provide that the first amending agreement is approved.

Amendment of schedule (Murray-Darling Basin Agreement)

Clause 35 renames the schedule as schedule 1 to refer to the Murray-Darling Basin Agreement (the original agreement).

Insertion of new sch 2 – First amending agreement

Clause 36 inserts a new schedule 2 to include the first amending agreement.

Part 9 Amendment of Plumbing and Drainage Act 2002

Act amended in pt 9

Clause 37 provides that part 9 amends the *Plumbing and Drainage Act 2002* (Plumbing and Drainage Act).

Amendment of s 85 (Process for assessing plans)

Clause 38 amends section 85 of the Plumbing and Drainage Act. Section 85 provides the process for the compliance assessment of a plan for regulated plumbing or drainage work. Local government assessment and approval of plumbing plans is required before a local government issues a compliance permit to enable plumbing work to commence. A plan includes any documentation that supports the plan for the work (that is, a certificate about elements of the design prepared by a competent person, or technical details of products proposed to be used in the installation).

The mandatory installation of sub-meters is proposed throughout Queensland from 1 January 2008 in new multi-unit developments to allow for the delivery of personalised information on water use to households and businesses. A sub-meter will be required to be installed in each sole occupancy unit where there is to be an exclusive reticulated water supply. Where the configuration of sole-occupancy units in a multi-storey office building is known at the time of construction, meters must be installed for each unit. Where the configuration is not known, a minimum requirement will be that one sub-meter is installed to measure consumption for each floor. In a building that has common water facilities, for example, a swimming pool in a multi-unit residential complex or common gardens, a sub-meter will be required for the common supply in addition to an individual meter for exclusive supply.

Proposed amendments to the *Standard Plumbing and Drainage Regulation 2003* will require plans, submitted with a compliance request for plumbing work, to include details of the type and positioning of the sub-meters according to advice provided by the water service provider. If this information is not provided, the local government may issue an information request to the applicant and the assessment of the application will stop until the information is received.

The local government may issue a compliance permit, with or without reasonable and relevant conditions, or refuse to issue a compliance permit within 20 days of receiving the request.

Subclause (1) amends section 85(7) to provide an example of a reasonable and relevant condition which requires the person carrying out the regulated work to notify the water service provider that a particular stage of the work has been reached for the installation of water meters.

Subclause (2) inserts new subsection (8) to require the local government to give a copy of the compliance permit to the owner of the premises to which the permit relates and if the permit is for a plan for work involving the installation of water meters on the premises, a copy to the water service provider, if the water service provider is not the local government.

Amendment of s 85B (Restrictions on giving compliance permit for greywater use facility in sewered area)

Section 85B details the conditions under which a local government can grant a compliance permit for a greywater use facility in a sewered area.

Clause 39 replaces section 85B(2) to extend greywater use from class 1a buildings (residential) to all classes of buildings and removes the restriction on giving a compliance permit for a greywater use facility as part of a community title scheme under the *Body Corporate and Community Management Act 1997*. A compliance permit may be granted for a greywater use facility in a sewered area for all domestic dwellings, whether single or multiple unit as well as single and multiple unit commercial and industrial buildings. A compliance permit may only be granted for a proposed facility which generates greywater of less than 50kL per day. If the facility generates more than 3kL per day the facility must include a greywater treatment plant that has chief executive approval or the facility's greywater diversion device has Plumbing Code of Australia authorisation and certification.

The facility's greywater treatment plant and greywater diversion device must continue to have a connection to sanitary drainage. Also, a compliance permit may only be granted if greywater can be diverted to sanitary drainage by a manual diversion device and greywater automatically overflows to sanitary drainage when required. For example, greywater overflow to the sanitary drainage may be required if the facility's filtering or irrigation system does not work properly.

Amendment of 85D (Restrictions on giving compliance permit for particular on-site sewage work)

Clause 40 replaces section 85D(2)(a) to include new subparagraph (iii) to enable a compliance permit to be granted for the installation of a on-site sewerage facility for testing purposes only in a sewered area in the south-east Queensland (SEQ) region for building classes 2 (a building containing two or more sole occupancy units each being a separate dwelling), 5 (office building) and 6 (shop) and 9b (school) classified under the Building Code of Australia. The SEQ region means the SEQ region under the *Water Act 2000* (Water Act), section 341. This restriction does not apply to a compliance request that is for, or includes, a greywater use facility.

The purpose of this amendment is to allow for trialling on-site treatment of blackwater in a sewered area in SEQ.

An application may be made to the Department of Infrastructure and Planning (DIP) for a testing approval for an on-site sewerage facility at certain types of premises in a sewered area.

The applicant will also be required to obtain a compliance permit under the Plumbing and Drainage Act from the relevant local government prior to the commencement of the trial. Compliance permits for testing purposes for on-site sewerage facilities in a sewered area can only be granted for on-site sewage treatment plants that have been issued with a chief executive approval from the DIP.

Once approval has been sought from the DIP, and a compliance permit issued, the trialling of on-site treatment of blackwater in a sewered area can commence.

Water quality samples will be taken by accredited laboratories from the trial site. These water quality test results will be monitored by the local government and the DIP in conjunction with the Department of Natural Resources and Water and Queensland Health and the Environmental Protection Agency.

The use of treated blackwater for purposes such as lawn and garden irrigation and toilet flushing will be subject to stringent water quality standards set in the Queensland Plumbing and Wastewater Code.

Guidelines will be developed for the operation of the blackwater trials.

Amendment of s 86 (General process for assessing regulated work and on-site sewerage work)

Clause 41 replaces section 86(10) to require the local government to give a copy of the compliance certificate to the owner of the premises to which the certificate relates and, if the certificate is for work involving the installation of water meters on the premises, a copy to the water service provider if the water service provider is not the local government.

Amendment of s 86C (Conditions of compliance certificate)

Section 86C currently provides that conditions cannot be imposed on a compliance certificate for regulated work except where the work is for a greywater use facility. However the only conditions that may be imposed on a compliance certificate for a greywater use facility must relate to the ongoing operation, maintenance or testing of the facility.

Clause 42 amends section 86C(2) to provide examples of conditions on a compliance certificate that could require the owner of a greywater treatment plant to have in place an arrangement to ensure people are not exposed to the plant's contents or require the owner of the relevant premises to maintain, in a stated way, the facility's filtering system.

Amendment of s 94 (Conditions of approval)

Clause 43 replaces section 94(2) to enable the chief executive to impose a condition on the approval for an on-site sewerage facility installed for testing purposes only. The condition may state when the contents of the installed facility may be disposed of and in the way provided for in section 128(P) subsections (1) or (3). The condition is to provide a period of testing of the treated water to ensure the standard of the treated water is adequate before the chief executive gives approval for the treated water to be used for surface or subsurface irrigation or for discharge to a toilet, or to the sewer.

Amendment of s 116 (Enforcement notices)

Clause 44 amends section 116(1)(a)(iii) to enable the local government to give the owner of the premises a written notice to do a stated thing if the local government reasonably believes that the on-site sewerage facility on the premises is not adequate to deal with the greywater generated on the premises or is in a condition that unreasonably interferes, or is likely to interfere, with the use or enjoyment of any other premises. Without the

amendment the provision relates only to sewage which may not include greywater.

Amendment of 125 (Restriction on building or installing particular on-site sewerage treatment plant)

Clause 45 amends section 125 for several purposes. Subclause (1) amends section 125 to correct a minor error by replacing 'sewerage' with 'sewage' to accurately reflect the operation of the provision.

Subclause (2) amends section 125 to provide a maximum penalty of 500 penalty units for building or installing an on-site sewage treatment plant in a sewered area without chief executive approval and without complying with all of the conditions of the that approval.

Insertion of new s 127A – Restriction on dismantling or taking away greywater treatment plant

Clause 46 inserts a new section 127A that provides for a new offence with a maximum penalty of 100 penalty units for a person who dismantles or takes away all or part of a greywater treatment plant installed on premises without authorisation in writing from the local government or under chief executive approval.

Amendment of s 128E (Restrictions on operating particular on-site sewerage treatment plant)

Clause 47 amends the heading of section 128E to correct a minor error by replacing 'sewerage' with 'sewage' to accurately reflect the operation of the provision.

Amendment of s 128H (Obligations of person who services on-site sewerage facility)

Clause 48 amends the heading of section 128H to include reference to 'greywater treatment plant'. Clause 48 also amends section 128H to extend the operation of the section to provide that a person who services a greywater treatment plant must give the local government a written report on the condition of the greywater treatment plant within one month after servicing the plant.

Insertion of new s 128JA – Water meter

Clause 49 inserts a new section 128JA that provides for a new offence with a maximum penalty of 165 penalty units for a person who tampers with a water meter. This section defines 'tamper' with a water meter to include tamper with plumbing associated with the meter in a way that may hinder the capacity of the meter to accurately measure the volume of water supplied to the premises.

Amendment of s 128K (Offences about discharging blackwater)

Clause 50 amends section 128K(1)(a) to provide that if the premises has an on-site sewage treatment plant with chief executive approval for testing purposes, the blackwater must be discharged to the on-site sewerage facility for the premises or into the infrastructure of the sewerage service provider for the area's sewerage service.

Amendment of s 128M (Offences about discharging greywater other than kitchen greywater from premises)

Clause 51 applies to the owner of premises for the discharge of greywater, other then kitchen greywater, from plumbing and drainage on the premises.

Subclause (1) replaces section 128M(2) to provide that owners of premises, including single detached dwellings, in a sewered area, commit an offence if they do not ensure greywater is discharged into the infrastructure of the sewerage service provider for the area's sewerage service, or the greywater use facility, or carried by bucket or discharged by hose to a garden or lawn on the premises.

Subclause (1) also replaces 128M(3) to provide that owners of premises, including single detached dwellings, not in a sewered area, commit an offence if they do not ensure greywater is discharged into an on-site sewerage facility, an environmentally relevant on-site sewerage facility, a greywater use facility or carried by bucket to garden or lawn areas. A maximum penalty of 500 penalty units applies for these offences.

Subclause (3) omits the definition of 'single detached dwelling' in subsection (6) as greywater discharge is no longer restricted to particular classes of buildings.

Insertion of new s 128OA – Disposal of contents of greywater treatment plant

Clause 52 inserts a new section 128OA that provides for a new offence with a maximum penalty of 100 penalty units for a person who, without local government approval, disposes of the content of a greywater treatment plant into the infrastructure of the sewerage service provider for the area in which the plant is located. An example of the contents of a greywater treatment plant is sludge.

Replacement of s 128P (Disposal of contents of on-site sewerage facility)

Clause 53 replaces section 128P to provide new offence provisions, with a maximum penalty of 100 penalty units, for a person to dispose of the contents of an on-site sewerage facility installed for testing purposes whilst maintaining existing offences for the disposal of the contents from those facilities installed other than those for testing purposes.

New section 128P(1) provides that a person must not dispose of the contents, other than effluent, of an on-site sewerage facility installed only for testing purposes other than by using the contents for the discharge of a toilet or by surface or subsurface irrigation.

New section 128P(3) provides that a person must not dispose of effluent from an on-site sewerage facility installed only for testing purposes other than to a sewer.

New section 128P(5) sensibly enables the contents to be removed for testing.

Insertion of new s 128PA – Offence about using greywater

Clause 54 inserts new section 128PA(1) to apply to the owner of premises in a sewered area in relation to the use of greywater, other then kitchen greywater, from plumbing and drainage on the premises.

Section 128PA(2) provides that the owner of premises in a sewered area commits an offence with a maximum penalty of 500 penalty units, if the owner does not ensure greywater discharged into a greywater treatment plant installed on the premises treats water to the standard stated for the plant in the Queensland Plumbing and Wastewater Code. If greywater is treated to the standard specified in the Queensland Plumbing and Wastewater Code, it may only on the premises for garden or lawn

irrigation, or washing vehicles, paths or exterior walls of the premises, or the discharge of a toilet or cold water supply to a washing machine.

If the greywater is discharged into a greywater treatment plant, installed on the premises and the water is not treated to the standard in the Queensland Plumbing and Wastewater Code, the owner must ensure the greywater is only used on the premises for garden or lawn irrigation. If the greywater is discharged into a greywater diversion device, the owner must ensure the greywater is used only on the premises for garden or lawn irrigation.

Section 128PA(3) provides that it is an offence, with a maximum penalty of 100 penalty units, for the owner of a premises not to ensure that the greywater does not cause an odour that unreasonably interferes with, or is likely to interfere with the use or enjoyment of any other premises or any ponding or run-off of the greywater does not cause a danger or health risk to anyone.

Insertion of new s 143C – Local government's monitoring obligations for particular on-site sewerage facility

Clause 55 inserts new section 143C to provide that local governments must monitor on-site sewerage facilities installed for testing purposes in sewered areas within its area to ensure their operation is in accordance with compliance certificate conditions and to make sure that the facility is not adversely affecting public health, amenity or the environment.

Amendment of s 172 (Provisions for chemical, composting or incinerating toilets)

Clause 56 amends section 172(2) to correct a minor error by replacing sewerage with sewage.

Amendment of schedule (Dictionary)

Clause 57 amends the schedule (Dictionary) by replacing or amending existing definitions and inserting new definitions.

Replacement of existing definitions

Existing definitions provided for 'drainage', 'greywater treatment plants' and 'greywater use facilities' are replaced.

The definition of 'drainage' is replaced to provide for the new uses of greywater introduced by this Bill. For example, to cater for the fact that the use of treated greywater does not always require a land application area.

The new definition also clarifies that the installation of on-site sewerage facilities and on-site sewage treatment plants is licensed work. For example, the installation of a pipe carrying effluent to an on-site sewage treatment plant on premises is drainage work.

The definition of 'greywater treatment plant' is replaced to increase the maximum size of a treatment system from 3kL to 50kL by providing for the treatment of not more than 50kL of greywater on premises per day.

The definition of 'greywater use facility' is replaced to provide for the use of greywater for internal and external uses, and to no longer limit the uses of greywater in a land application area. Permitted uses of greywater now include lawn and garden watering, path and wall washing and toilet flushing. For example, it will be possible to use greywater only to flush toilets and a land application area is not necessary.

Amendment of existing definitions

Existing definitions provided for 'greywater', 'on-site sewerage facility' and 'sanitary drainage' are amended.

The definition of 'greywater' is amended to provide for greywater sourced from buildings that are not domestic premises. This extends the uses of greywater to commercial premises.

The definition of 'on-site sewerage facility' has been amended to allow the use of treated effluent generated on-site for toilet flushing and irrigation as part of a testing approval in a sewered area.

The definition of 'sanitary drainage' is amended to provide for a greywater use facility.

Insertion of new definitions

New definitions for 'apparatus', 'water meter' and 'water service provider' are inserted.

The definition of 'apparatus' is inserted to make clear that installing a water meter on premises is regulated work that may only be carried out by a licenced plumber.

A 'water meter' is defined as a device (including equipment related to the device) for measuring the volume of water supplied to the premises. Equipment related to the device would include the electronic monitoring equipment installed with a 'pulse' water meter.

The definition of 'water service provider' is inserted to identify the entity that must be given a copy of a compliance permit and a compliance certificate if regulated work involves the installation of water meters on

premises, where the water service provider is not the local government. A water service provider, for premises, is the water service provider registered under the Water Act to provide a retail water service for the premises.

Part 10 Amendment of Residential Tenancies Act 1994

Act amended in pt 10

Clause 58 provides that part 10 amends the *Residential Tenancies Act 1994* (Residential Tenancies Act).

Replacement of s 91A (Water service charge for premises other than moveable dwelling premises)

Clause 59 omits existing section 91A and replaces it with a new section 91A - Water service charges for premises other than moveable dwelling premises.

New subsection (1) establishes that this section does not apply to premises that are moveable dwellings.

New subsection (2) clarifies that tenants can only be required to pay for their water consumption if they are receiving a water service for the rental premises, and the premises are individually metered for the water supply, and the residential tenancy agreement states that the tenant must pay the water consumption charges.

New subsection (3) states that tenants can only be required to pay for their water consumption if the premises are water efficient, that is, toilets, shower heads and cold water taps installed in the premises are water efficient to the level prescribed under a regulation, for the period.

New subsection (4) provides that if the premises are not water efficient for the period, the tenant may only be required to pay an amount of the water consumption charge that is above what is charged for a reasonable quantity of water for the premises, and cannot be charged for the whole amount of the water consumption charge.

New subsection (5) provides further direction for 91A(4) in determining what may be considered a reasonable amount of water to be supplied to the

premises. It indicates that matters mentioned in sections 93(3A)(a) to (e) should be considered when deciding what may be a reasonable amount.

New subsection (6) establishes that where tenants can be required to pay for water consumption, tenants cannot be required to pay an amount more than the water consumption charges payable to the relevant water supplier.

New subsection (7) states that the tenant may not be required to pay any fixed charges for the supply of water to the premises.

New subsection (8) clarifies that premises are considered water efficient if the toilets, shower heads and internal cold water taps installed in the premises are water efficient to the level prescribed in a regulation.

New subsection (9) defines water consumption charges as the variable part of a water service charge assessed on the amount of water supplied to the premises.

Amendment of s 123A (Meaning of *emergency repairs*)

Clause 60 omits existing section 123A(a) and inserts a burst water service or a serious water service leak as a type of emergency repair.

Insertion of new ch 11, pt 5

Clause 61 inserts a new chapter 11, part 5 (Transitional provisions for Water and Other Legislation Amendment Act 2007) to deal with the application of section 91A to existing fixed term agreements.

New Part 5 Transitional provision for Water and Other Legislation Amendment Act 2007

New section 355 – Application of s 91A to existing fixed term agreement

New subsection (1) establishes that section 355 applies to all existing fixed term agreements which are in force immediately before the amendment Act (Water and Other Legislation Amendment Act 2007, part 10) commences.

New subsection (2) clarifies that the amendment Act does not apply to fixed term agreements in force immediately before the amendment Act commences, and the previous provisions for water charging continue to apply.

New subsection (3) clarifies that from 1 April 2009 the amendment Act will apply to all fixed term agreements, including those exempted in 355(1).

New subsection (4) defines the amendment Act for section 355 as the Water and Other Legislation Amendment Act 2007, part 10.

Part 11 Amendment of Water Act 2000

Act amended in pt 11

Clause 62 provides that part 11 amends the *Water Act 2000* (Water Act).

Insertion of new ch 2, pt 2, div 2B

New Division 2B Restrictions on use of subartesian water

Clause 63 inserts a new division 2B (Restrictions on use of subartesian water) for chapter 2, part 2.

New division 2B will provide the Queensland Water Commission (the Commission) and water service providers with powers to restrict the use of subartesian water (that is, water from underground aquifers) where the taking of such water may threaten the security of a water service provider's reticulated water supply. It is intended that the restriction powers will enable the Commission and water service providers to manage restrictions on the use of subartesian water in parallel with their current water restrictions regimes on the use of reticulated water.

Under the Water Act, section 20(6), a person may take or interfere with subartesian water, for any purpose, unless another statutory instrument alters that right.

In the past, restrictions on the use of subartesian water have not been contemplated because the volumes of water extracted have generally been very small. However, the persistence of the current drought, and imposition of restrictions on the use of reticulated water, has resulted in a significant increase in the number of bores being drilled by residents and businesses seeking an alternative water source. This is particularly apparent in urban areas in south-east Queensland (SEQ), which is currently experiencing level 5 restrictions, and parts of regional Queensland also impacted by the drought. However, where the subartesian water being taken is from the same source that supplies or supplements a water service provider's reticulated water service, there is potential for the reliability of that water source to be threatened.

New section 25ZA – Application for approval to restrict use of subartesian water

New section 25ZA enables the Commission or a water service provider to apply, in writing, to the chief executive for approval to impose water restrictions on the use of the subartesian water that is being taken under section 20(6) of the Water Act for any purpose other than for 'stock purposes', as defined under the Act.

A water restriction on the use of subartesian water may only be made in relation to customers of a water service provider. Restrictions on the use of subartesian water cannot be imposed on a person who is not connected to reticulated water.

New section 25ZB – Deciding application

New section 25ZB provides criteria against which the chief executive must assess an application from the Commission or a water service provider. Specifically, the chief executive may only approve an application for approval to place restrictions on the use of subartesian water if:

- the subartesian water is being taken from the same source as a water service provider's water supply for a retail water service;
- taking the subartesian water may threaten the security of the water service provider's water supply; and
- the Commission or a water service provider has imposed or is about to impose water restrictions in relation to the water supply.

New section 25ZC – Notice about decision to give approval

Under new section 25ZC if the chief executive is satisfied that the criteria under section 25ZB are met and gives approval, the chief executive must give a notice about the approval to the applicant within 30 days. The approval may be given with or without conditions. If the chief executive is not satisfied that the criteria are met, the chief executive must refuse to give approval and give a notice about the refusal to the applicant within 30 days.

New section 25ZD – Restriction of subartesian water by commission

New section 25ZD provides that the Commission may not impose a restriction on the use of subartesian water that is more onerous than a restriction currently imposed on the customer by the Commission.

Subsection (4) provides that for sections 360ZE to 360ZG of the Act, a restriction under section 25ZD is taken to be a 'commission water restriction'. This provision is intended to ensure that the restrictions placed on subartesian water are subject to the same notice requirements as current commission water restrictions. It is also intended to enable the Commission to delegate the notice, monitoring and enforcement responsibilities for the restriction to water services providers.

New section 25ZE – Restriction of subartesian water by water service provider

New section 25ZE provides that water service providers may not impose a restriction on the use of subartesian water that is more onerous than a restriction currently imposed on the customer by the service provider.

Subsection (4) provides that for section 389 of the Act, a restriction under section 25ZE is taken to be a 'service provider water restriction'. This provision is intended to ensure that the restrictions placed on subartesian water are subject to the same notice requirements as current service provider water restrictions.

Amendment of s 46 (Content of draft water resource plans)

Clause 64 amends section 46(2) to provide that a draft water resource plan may include the types of works for taking or interfering with water in a watercourse, lake or spring that are intended to be self-assessable development under the *Integrated Planning Act 1997* (Integrated Planning Act). This establishes the framework for how works that take or interfere

with water in a watercourse, lake or spring are to be regulated under the Integrated Planning Act.

Amendment of s 73 (Requirement for land and water management plans)

Clause 65 amends section 73. Section 73 requires an approved land and water management plan before water can be used for irrigation in certain circumstances. It is possible that persons outside Queensland will be able to take water under a Queensland water entitlement and use that water for irrigating land outside Queensland. For example, this could occur where a Queensland water resource plan boundary adjoins another State's water plan area. This amendment clarifies that a land and water management plan is not required by persons proposing to use water taken under a Queensland water entitlement for irrigating land outside Queensland.

Amendment of s 129 (Changing water allocations under water allocation change rules)

Clause 66 makes a minor amendment to the heading of section 129 to clarify that the section only applies to changes to a water allocation that are permitted changes under the water allocation change rules of a resource operations plan.

Insertion of new s 129A – Changing water allocations assessed under water allocation change rules

Clause 67 inserts new section 129A to provide a mid-form application process for changing a water allocation under the water allocation change rules of a resource operations plan. Under the Water Act, these rules currently provide for permitted (section 129) and other changes (section 130). New section 129A deals with applications for a new type of change, an assessed change. These changes have undergone a level of pre-assessment during resource operations plan development and have been incorporated into the resource operations plan consultation process. New section 129A provides that an application to change a water allocation in accordance with an assessed change water allocation change rule of a resource operations plan:

- must be in the approved form; and
- may relate to one or more of the elements of the allocation mentioned in section 128; and

- must be supported by sufficient information to enable the chief executive to decide the application; and
- must be accompanied by the fee prescribed under regulation.

Amendment of s 131 (Addition information may be required)

Clause 68 amends section 131 to provide that the chief executive can require an applicant to provide additional information about applications to make assessed changes to water allocations.

Amendment of s 133 (Applicant to pay cost of researching and investigating application)

Clause 69 amends section 133 to provide that this section applies to applications made under both sections 129A (Changing water allocations assessed under water allocation change rules) and 130 (Other changes to water allocations) of the Act.

Amendment of s 134 (Deciding application to change water allocation)

Clause 70 amends section 134, inserting a new subsection (1A) which provides a process for deciding an application to make an assessed change to a water allocation. To approve an application, the chief executive needs to be satisfied that the change is in accordance with the water allocation change rules of the relevant resource operations plan. The addition of new subsection 1A to section 134 also means that the notice and certificate requirements for an assessed change are the same as those for a change to a water allocation under section 130 (Other changes to water allocations).

Amendment of s 340 (Main purpose of ch 2A and its achievement)

Under another clause of this Bill, section 360ZD has been amended to provide the Commission with power to impose water restrictions to help achieve long-term demand management objectives for water and not only where there is a significant threat to secure and sustainable water supply. Clause 71 amends section 340 to reflect the broader restriction-making power of the Commission.

Amendment of s 360J (Content of options)

The location of works for the provision of water supply to a region is usually based on factors including river hydrology and geomorphology, and proximity to end-user demands. As such, water supply works may not necessarily be located within, or wholly within the region that they supply.

Clause 72 amends section 360J to clarify that water supply works necessary to achieve water security for a region do not necessarily have to be located within the region. However, water security planning for a region should have regard to communities adjacent to the region that may be affected by the planning, consistent with the principle identified in section 346(3)(e) of the Water Act.

Amendment of s 360N (Effect of program for Integrated Planning Act 1997)

Clause 73 amends section 360N to clarify that water supply works identified in a regional water security program may not necessarily be located in the region to which the regional water security program applies.

Amendment of s 360W (Content of plan)

Clause 74 amends section 360W to clarify that water supply works to which a system operating plan applies may not necessarily be in the plan area for the system operating plan.

Amendment of s 360Y (Publication and taking effect of plan)

Clause 75 amends section 360Y to require the Commission to give a copy of the system operating plan to each water service provider for water supply works to which the plan applies, whether or not they are located in the plan area.

Amendment of s 360Z (Amendment of plan)

Clause 76 amends section 360Z to clarify that water supply works to which a system operating plan applies may not necessarily be in the plan area for the system operating plan.

Amendment of s 360ZA (Water service providers must comply with system operating plan)

Clause 77 amends section 360ZA to confirm that all water service providers to which a system operating plan applies are required to comply with the plan.

Amendment of s 360ZB (Publication requirements)

Clause 78 amends section 360ZB to confirm that the requirements in that section apply to all water service providers to which a system operating plan applies.

Amendment of s 360ZCB (When water efficiency management plan may be required)

Clause 79 amends section 360ZCB to clarify that the provisions of chapter 2A, part 5, division 3 (Water efficiency management plans) apply to a water efficiency management plan prepared to gain the benefit of an exemption from a commission water restriction or a service provider water restriction.

Amendment of s 360ZCD (Approving water efficiency management plan)

Clause 80 amends section 360ZCD(4) to clarify that where a water service provider refuses to approve a plan, there are two obligations on a customer, being:

- a customer must, within 20 business days of receiving a notice of the decision to refuse to approve, submit to the service provider a revised plan; and
- the plan that is submitted must address the reasons for the refusal to approve the decision.

An offence will be committed under this section if the customer fails to meet either of these obligations.

Clause 80 also amends section 360ZCD(8) to allow water service providers to recover from the customer the costs to the water service provider of approving the customer's water efficiency management plan, rather than being limited to recovering only a nominal fee.

Amendment of s 360ZD (Restricting water supply)

Clause 81 amends section 360ZD subsections (1) and (2) to remove doubt that the Commission may impose water restrictions to help achieve long-term demand management objectives for water and is not limited to where there is a significant threat to secure and sustainable water supply.

The Commission could rely on this head of power to impose ongoing low-level restrictions to encourage permanent efficient water use practices to contribute to a sustainable and secure water supply for the future.

Clause 81 also amends section 360ZD(3) to clarify that where a rainwater tank is connected to the reticulated supply (for example because the rainwater tank is connected to appliances inside the house and is automatically topped up from the reticulated supply) a commission water restriction can apply to all the water in the tank. This provision is necessary because it is not practicable to determine the source of the water in the rainwater tank. This is consistent with section 388(3) of the Act which gives the same restriction-making power to water service providers.

Amendment of s 384 (Power to enter places for restricted purposes)

Under another clause of this Bill, section 457 is amended to allow service providers to reduce water supply to premises where the owner or occupier of premises contravenes a commission water restriction. This power already exists in section 457 where a person contravenes a service provider water restriction.

Many devices for reducing water supply to premises are fitted on the water meter for the premises. In some premises the water meter is inside the premises boundary.

Clause 82 amends section 384 to clarify that an authorised person may enter a place (which, under section 379 of the Act specifically excludes part of a place used for residential purposes) for the purpose of installing a device to reduce water supply to premises in accordance with section 457.

Insertion of new s 384A – Power to enter place to read, check, maintain or replace meter

Clause 83 inserts a new section 384A that is one of a range of amendments to primary legislation to facilitate and implement mandatory installation of 'sub-meters' in multi-unit residential and non-residential complexes from 1 January 2008.

Water service providers who provide retail water services will own the meters and be responsible for reading and charging customers accordingly, and maintaining and replacing meters as necessary. New section 384A ensures that such service providers have adequate powers to read meters, check the accuracy of meters and maintain or replace meters. However, the entry power does not allow entry to any part of a place used for residential purposes and entry may only be made at a reasonable time. This new entry provision is modelled on equivalent powers for electricity entities under the *Electricity Act 1994,* section 137.

Amendment of s 388 (Restricting water supply)

Clause 84 amends section 388. Section 388 provides water service providers with the authority to restrict water use under specified circumstances to maintain water supply to customers. The amendments to this section provide water service providers with two additional circumstances under which water supply may be restricted.

The first provides the water service provider with the authority to restrict water supply if the service provider's outdoor water use conservation plan contains a measure to that effect. The preparation of an outdoor water conservation plan is a new requirement on water service providers which aims to achieve permanent water savings.

The second provides the water service provider with the authority to restrict water supply if directed by the regulator under new section 388A inserted by this Bill.

Insertion of new s 388A – Regulator may direct restriction

Clause 85 inserts new section 388A to provide the regulator with the authority to direct water service providers in areas outside the SEQ region or a designated region, to apply and enforce water restrictions on urban water users if there is a significant threat to an area's water supply. These powers are equivalent to the current restrictions powers of the Commission under section 360ZD in respect of the SEQ region.

The Water Act currently allows for water service providers to impose and enforce water restrictions under certain circumstances, however some water service providers facing critical water supply shortages have not implemented appropriate, or in some cases, any level of water restrictions.

The regulator may only direct a water service provider to impose a restriction after consultation with the water service provider. If a direction is given by the regulator, the water service provider must comply with the

direction and impose the restrictions and give the regulator a response within the specified timeframe stating how the water service provider will ensure compliance with the restrictions.

The regulator may approve the response if satisfied it is adequate to ensure compliance with the restrictions or change the response to make it adequate and approve the changed response. A service provider must comply with an approved response by taking the steps stated in the response.

Amendment of ch 3, pt 2, div 6, hdg (Further powers of service providers)

Clause 86 amends the division heading to reflect the inclusion new section 398A inserted by the Bill.

Insertion of new s 398A – No charge for non-Act water in rainwater tank

Clause 87 inserts new section 398A to remove doubt that a service provider must not charge for non-Act water that—

- has been collected from a roof; and
- is in, or taken from, a rainwater tank.

Amendment of s 400 (When water efficiency management plan may be required)

Clause 88 amends section 400 to clarify that the provisions of chapter 3, part 2, division 7 (Water efficiency management plans) apply to a water efficiency management plan prepared to gain the benefit of an exemption from a service provider water restriction

Amendment of s 402 (Approving water efficiency management plan)

Clause 89 amends section 402(4) to clarify that where a water service provider refuses to approve a plan, there are two obligations on a customer, being:

- a customer must, within 20 business days of receiving a notice of the decision to refuse to approve, submit to the service provider a revised plan; and

- the plan that is submitted must address the reasons for the refusal to approve the decision.

An offence will be committed under this section if the customer fails to meet either of these obligations.

Clause 89 also amends section 402(8) to allow service providers to recover from the customer the costs to the water service provider of approving the customer's water efficiency management plan, rather than being limited to recovering only a nominal fee.

Amendment of s 404 (Reporting under water efficiency management plan)

Clause 90 amends section 404 (1)(c) to correct an incorrect reference.

Amendment of s 420A (Spot audit by commission)

Clause 91 amends the definition of 'water service provider' for the purpose of section 420A, which enables spot audits by the Commission, to clarify that the term includes an entity that operates or controls the operation of water supply works (as opposed to owning the works), to which a system operating plan applies. These works may or may not be in the plan area for the system operating plan.

Insertion of new ch 3, pt 3, div 2B

Clause 92 inserts new division 2B (Outdoor water use conservation plan).

New Division 2B Outdoor water use conservation plan

New section 429L – Application of div 2B

New section 429L provides that the division applies to a service provider who provides a retail water service outside the SEQ region or a designated region. A retail water service is defined under the Act; in general terms a retail water service equates to the supply of reticulated water to urban customers.

New section 429M – Water service provider to have outdoor water use conservation plan

New section provides that a relevant water service provider must have an outdoor water use conservation plan for reducing outdoor water use and promoting efficient water use by customers. The impacts of the ongoing drought and climate change have highlighted the importance of conserving water as a precious resource. Australia will become hotter and drier in coming decades, with areas in Queensland particularly affected. This new requirement for an outdoor water conservation plan aims to ensure urban water users are applying water efficient practices at all times, not simply during periods of water shortage at the local or regional level.

The plan prepared by a water service provider must be consistent with guidelines issued by the regulator and include:

- any water restrictions imposed, or to be imposed by the water service provider;
- details of measures to reduce outdoor water use and promote efficient water use by customers; and
- the way the service provider intends to implement and ensure compliance with the measures.

Examples of the types of practices which may be included in a plan include restricting the use of garden sprinklers during the middle of the day (except where required for safety reasons), and alternate outdoor watering days. Measures may also include education programs, rebate schemes for water efficient devices, water wise plants and garden equipment.

There are other water supply planning requirements imposed on water service providers under the Water Act. A plan under section 429M may be part of another document if it fulfils the requirements under the guidelines issued by the regulator, for example, a drought management plan may already include measures or water restrictions that will satisfy the requirements of the guidelines.

New section 429N – Approving outdoor water use conservation plan

Under new section 429N the regulator must refuse or approve outdoor water conservation plans submitted by water service providers. (An approved plan is required within two years after commencement of the provisions.) The decision to approve or refuse a plan is dependent on

whether the plan satisfies the requirements of the guidelines issued by the regulator.

If a plan is approved, the regulator must give a notice advising the water service provider of the decision. If a plan is refused, in the first instance, the regulator must give a notice to the water service provider stating how the plan must be changed to comply with the guidelines and include a timeframe within which the revised plan must be returned to the regulator for consideration.

If after considering a revised plan, the regulator decides to refuse the plan, the regulator must give an information notice to the water service provider. A decision by the regulator to refuse the revised plan can be appealed.

New section 429O – Changing outdoor water use conservation plan

New section 429O provides for a water service provider to amend a plan after it has been submitted and approved by the regulator. Any changes need to be made in consultation with the regulator and approved by the regulator.

New section 429P – Complying with outdoor water use conservation plan

New section 429Q provides that a water service provider must comply with the plan once it is approved by the regulator. This includes enforcing measures outlined under the plan.

Insertion of new ch 3, pt 3, div 2C

Clause 93 inserts new division 2C (Other service provider obligations) that includes new subdivision 1 (Residential premises) and new subdivision 2 (Premises with more than 1 sole-occupancy unit).

New Division 2C Other service provider obligations

New Subdivision 1 Residential premises

New subdivision 1 applies two separate requirements on retail water service providers (or related local governments) in relation to the provision

of water consumption information to, and billing of, residential premises. Currently the majority of retail water service providers are local governments. Such water service providers utilise rating powers under the *Local Government Act 1993* (Local Government Act) to levy a 'utility charge' for the supply of water on property owners. However, in some instances, a local government will issue a rate notice for the supply of water on behalf of a water service provider (a separate legal entity) that is not the local government, hence a 'related local government'. Other (non-local government) water service providers issue an account for the supply of water to their customers.

New section 429Q – Application of sdiv 1

Subdivision 1 applies to water service providers (or related local governments) who provide retail water services to residential premises. However the subdivision only applies in respect of residential premises where the supply of water is measured and charged by the water service provider or related local government in relation to the premises only. Also, the subdivision does not apply to premises that are common property under the *Body Corporate and Community Management Act 1997* (Body Corporate and Community Management Act) or the *Building Units and Group Title Act 1980.*

New section 429R – Guidelines for rate notice or account for supply of water to residential premises

New section 429R provides that a rate notice or account issued by a water service provider or related local government for the supply of water to residential premises, must comply with guidelines issued by:

- in respect of the SEQ region or a designated region—the Commission; or
- in respect of an area outside the SEQ region or a designated region—the regulator.

The guidelines may specify the frequency at which a rate notice or account must be issued for the supply of water to residential premises; and the type of information to be included in the rate notice or account about the volume of water supplied to the premises during each billing period for the premises.

The guidelines will provide for standardised information to be included on rate notices or accounts, including detailed graphical information on water consumption, comparisons of average daily water consumption against

previous billing periods and the local area average, messages about water consumption targets and ways to help save water.

Subsection (3) provides that the section applies despite sections 973(4) and 1008(3) of the Local Government Act.

New section 429S – Service provider to give occupier water advice

About one-third of households (rental properties) receive no information about the amount of water consumed on the premises as owners are usually liable for the cost of the supply of water and they receive the water bill (rate notice or account) with the consumption information. As such, residents are often unaware of their water use, how their water consumption compares with other households and there is no incentive to reduce water consumption.

New section 429S requires water service providers to provide a water advice to occupiers of residential rental properties that states the amount of water supplied to the premises during each billing period.

New section 429S states that the water advice must not include any information about any other rates or charges mentioned in section 963 of the Local Government Act; but may include information about ways to reduce the amount of water used on the premises or water restrictions applying to the premises.

Subsection (4) provides a definition of 'occupier' for the section.

New Subdivision 2 Premises with more than 1 sole-occupancy unit

New section 429T – Service provider to give information about water usage

New section 429T is one of a number of amendments related to the mandatory installation sub-meters in multi-unit complexes as from 1 January 2008. New section 429T applies to premises with more than one sole-occupancy unit.

The intent of the provision is to provide owners of multi-unit buildings with an itemised rate notice or account with all sub-meter readings within the building or complex so that owners can elect to pass on the cost of the

water supply to individual tenancies accordingly to actual volumes of water supplied.

New section 429T provides that in respect of premises mentioned in subsection (1), a rate notice or account issued by a water service provider or related local government for the provision of a retail water service must:

- state the volume of water supplied through each meter during each billing period for the premises; and
- the amount of the total charge for the retail water service that relates to the volume of water supplied through each meter.

A definition of 'sole occupancy unit' is provided for the section.

The section does not to apply to community titles schemes under the Body Corporate and Community Management Act. This is because lot owners and bodies corporate are either charged directly by the relevant service provider for the supply of water to individual lots and the common property respectively for actual consumption, or the total charge for the supply of water to the scheme is apportioned among lot owners. For new community titles schemes established after 1 January 2008, where sub-meters are installed, the water service provider will be obliged to charge lot owners and bodies corporate directly for the supply to individual lots and the common property.

Amendment of s 430 (Service provider to report annually)

Clause 94 amends section 430 to require water service providers to prepare an annual report on the provision of water advices to occupiers of residential premises as described under the new section 429S.

The amended section states that the annual report referred to above may be prepared in combination other reports required to be provided by service providers to the regulator.

Clause 94 also provides that the annul report required by this amendment should document the number of water advices given to occupiers of residential premises and the nature of any complaints received about the giving of water advices during the period covered by the report.

Amendment of s 457 (Restricting domestic water supply in certain circumstances)

Under section 457 service providers can reduce the water supply to the premises where the owner or occupier of the premises continues to

contravene a service provider water restriction despite receiving a notice not to continue to contravene the restriction. Clause 95 amends section 457 to extend this power to continued breaches of commission water restrictions as well as service provider water restrictions. The service provider may only reduce the water supply to the premises to the minimum level necessary for the health and sanitation purposes of the owner or occupier.

Amendment of s 811 (Tampering with devices)

Clause 96 amends section 811 to specifically provide that it is an offence to tamper with a device used to reduce water supply to premises. For the purposes of the section, tampering includes tampering with the works associated with the device in a way that may hinder the capacity of the device to restrict the water supply with the premises.

Amendment of s 932 (Proceeding for offences)

Clause 97 amends section 932 to provide that service providers can bring a proceeding for an offence under chapter 2A, part 5, division 3 (Water efficiency management plans), other than an offence for which a service provider themselves may be liable.

Amendment of s 1004 (Referral panels established by the chief executive)

Clause 98 amends section 1004(1) to allow the chief executive to establish a referral panel to advise on matters about the granting of water licences under section 212 (Granting a water licence under a plan or declaration process) of the Act and the transfer of water licences under section 223 (Other transfer of water licence) of the Act. These matters arise in the context of approved resource operations plans and are not currently provided for in section 1004(1).

Amendment of Section 1010A (Non-disclosure of commercially sensitive information)

Clause 99 amends section 1010A by inserting a reference to sections 25T (Requirements for further information) and 36A (Obtaining information from a service provider). This ensures that information provided to the department pursuant to sections 25T and 36A is not disclosed to another person, without the client's consent, other than an employee of the

department who receives the information in the course of the employees' duties.

Amendment of s 1013 (Approved forms)

Clause 100 amends section 1013 to allow for the Commission to approve forms for use under section 429S (Service provider to give occupier water advice).

Amendment of s 1014 (Regulation-making power)

Clause 101 amends section 1014 to include the power for a regulation to be made to state a process for dealing with applications for a change to a water allocation under section 129 (Changing water allocations permitted under water allocation change rules), 129A (changing water allocations assessed under water allocation change rules) or 130 (Other changes to water allocations).

In some circumstances, the release of a resource operations plan or an amendment to a resource operations plan will include a provision for a water allocation holder to apply for a highly sought after change to a water application, which may result in a flood of applications to change water allocations due to the perceived benefit of changing water allocations in this manner.

This provision gives the chief executive the flexibility to elect to put in place a process to determine the manner in which applications are dealt with.

Insertion of new s 1015 – Provision for amended s 618

Clause 102 inserts new section 1015 to confirm the actual intent of an amending command (as included in Act No. 20 of 2007, section 110(2)) for inserting new words in section 618 subsections (2) and (4) of the Water Act.

Insertion of new ch 9, pt 5, div 9

Clause 103 inserts new Division 9 (Transitional provisions for Water and Other Legislation Amendment Act 2007) to provide for the application of sections relating to changes to water allocations, outdoor water use conservation plans, guidelines for rate notices or accounts for water supply, water advices and water efficiency management plans..

New Division 9 Transitional provisions for Water and Other Legislation Amendment Act 2007

New section 1151 – Applications for change to water allocation

New section 1151 provides that an application for a change to a water allocation made but not dealt with before the commencement of this section is to be dealt with in accordance with any regulation made under new section 1014(2)(gc), inserted by this Bill.

New section 1152 – Application of provision about outdoor water use conservation plan

New section 1152 provides that relevant water service providers must have an outdoor water use conservation plan under new section 429M within two years after the commencement of this section. A new water service provider registered after the commencement of this section, will have two years to comply from the date of their registration. This section will commence by proclamation.

New section 1153 – Application of provision about guidelines for rate notice or account for water supply

New section 1153 provides the commencement timeframes for the requirements under section 429R. These requirements relate to the provision of a rate notice or water account by a water service provider or related local government to residential water customers. The rate notice or water account must be prepared in accordance with guidelines that may specify the frequency at which a rate notice or account must be issued and the type of information to be included in the rate notice or account.

Water services providers and related local governments must comply with section 429R as follows:

for an existing provider in the SEQ region or a designated region -1 July 2009; or

- for an existing provider in an area outside the SEQ region or a designated region - 4 years after the commencement of this section; or
- for a new provider -1 year after the provider's registration as a water service provider;

- for a related local government – 4 years after the commencement of this section.

The commencement dates recognise that substantial changes in billing practices, technologies and meter reading are required in order to implement the requirements of section 429R.

This new section also provides definitions for 'existing provider' and 'new provider' for the purposes of the section.

New section 1154 – Application of provision about water advices

New section 1154 provides the commencement timeframes for the requirements under section 429S. These requirements relate to the provision of a water advice given to the occupier of residential premises stating the amount of water supplied to the premises during each billing period.

Water services providers must comply with section 429S as follows:

- for an existing provider in the local government area of Brisbane City Council or Gold Coast City Council -1 January 2008; or
- for an existing provider in the SEQ region or a designated region, other than in the local government areas of the Brisbane City Council or Gold Coast City Council -1 July 2009; or
- for an existing provider in an area outside the SEQ region or a designated region - 4 years after the commencement of this section.

The new section also confirms that section 429S does not apply to a new water service provider, until 1 year after the provider's registration as a water service provider.

The commencement date for Brisbane City and Gold Coast City reflect the current capacity of billing databases to record residential rental properties. The commencement date for other existing water service providers in the SEQ region and for water service providers outside the SEQ region recognises that substantial changes in billing practices and technologies are required in order to implement the requirements of section 429S.

New section 1155 – Plan taken to be water efficiency management plans

New section 1155 provides a new transitional provision to provide that chapter 2A, part 5, division 3 (Water efficiency management plans) and chapter 3, part 2, division 7 (Water efficiency management plans) applies to all water efficiency management plans submitted or approved under a requirement of a commission water restriction or a service provider water restriction. This transitional provision, combined with the amendment made by clause 79 of this Bill will ensure that all water efficiency management plans submitted for any reason, including as a requirement under a water restriction, will be governed by the regulatory framework provided for in the Water Act.

Amendment of sch 4 (Dictionary)

Clause 104 amends schedule 4 (Dictionary) to replace or amend existing definitions and to insert new definitions.

Replacement of existing definitions

Existing definitions provided for 'hazardous waste', 'monitoring equipment' and 'non-Act water' are replaced.

The definition of 'hazardous waste' is replaced to insert new paragraph (b). The new paragraph provides that 'hazardous waste' includes ash resulting from the process of power generation. As a consequence of the amendment, an ash dam is not a referable dam under the Water Act and the Department of Natural Resources and Water is not responsible for regulating ash dams or for preventing or minimising the impact of a dam failure.

The definition of 'monitoring equipment' is replaced to provide that monitoring equipment includes equipment for assessing the effects of taking, or interfering with, water and to insert 'meter' in the definition. This will make it clear that monitoring equipment may include a meter, and that the existing power of authorised officers, under section 747 to enter land to construct, calibrate etc. monitoring equipment, applies to meters.

The definition of 'non-Act water' is replaced to clarify that the term includes recycled and desalinated water.

Amendment of existing definitions

The existing definition provided for 'water service provider' is amended.

The definition of 'water service provider' is amended to clarify that, for chapter 2A, the term includes an entity that operates or controls the operation of water supply works (as opposed to owning the works), to which a system operating plan applies. These works may or may not be in the plan area for the system operating plan.

Insertion of new definitions

New definitions for 'billing period', 'meter', 'outdoor water use conservation plan', 'rate notice', 'related local government', 'residential premises' and 'water advice' are inserted.

The definition of 'billing period' means, for premises, a period during which the water service provider measures the volume of water supplied to the premises for the purpose of charging for the water.

The definition of 'meter' is defined as including equipment related to the meter for measuring and recording the taking of, or interfering with, water; or for measuring and recording the quality of water. This is similar to the definition provided in the *Water Regulation 2002*, but is expanded to include equipment related to the meter for measuring and recording the quality of water.

The new definition of 'outdoor water use conservation plan' means the plan mentioned in section 429M(1)

The new definition of 'rate notice' means a rate notice issued under the *Local Government Act 1993*.

The new definition of 'related local government' means a local government who charges for the supply of water for a retail water service if the retail water service is provided by a water service provider who is not the local government.

The new definition of 'residential premises' means premises that are used for residential purposes.

The new definition of 'water advice' means the advice mentioned in section 429S(2)

Part 12 Amendment of Water Amendment Act 2005

Act amended in pt 12

Clause 105 provides that part 12 amends the *Water Amendment Act 2005* (Water Amendment Act). Section 387B of the Water Amendment Act identifies certain water users that must have a supply contract with SEQ Water. The commencement of section 387B, which was included in section 7 of the Water Amendment Act, was delayed by the *Water Amendment (Postponement) Regulation 2006* and the section is now due to commence on 19 November 2007.

Amendment of s 7 (Insertion of new ch 3, pt 2, div 2A of *Act No. 34 of 2000*)

Clause 106 amends section 387B to remove reference to certain areas, namely the impoundments of Wivenhoe, Somerset and North Pine Dams. New arrangements for those water licence holders in relation to the impoundments of Wivenhoe, Somerset and North Pine Dams are proposed to be addressed through future water resource planning processes under the *Water Act 2000*. The provisions of the new section 387B will therefore commence only in relation to the area described as 'the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir'.