

WATER AND SEWERAGE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2009

SECOND READING SPEECH

Mr Speaker

The *Water and Sewerage Legislation (Miscellaneous Amendments) Bill 2009* makes amendments to the legislation which created, and which will regulate, the new water and sewerage businesses from 1 July 2009, as well as dealing with a number of supplementary and consequential issues related to the reform of the sector.

Mr Speaker, a formal four week public consultation was conducted on the content of these amendments between 20 April 2009 and 15 May 2009. The consultation included running two information sessions, one in Hobart on 30 April 2009 and one in Launceston on 4 May 2009.

Much assistance has been provided in the drafting of the Bill by local government, the new corporations and State Government agencies, particularly Workplace Standards, to ensure that from 1 July 2009 the transition to the new arrangements in the water and sewerage sector are as smooth as possible. I would like to thank all those involved.

Mr Speaker, it is of vital importance that this Bill is considered by the House as a matter of priority so that we can ensure the amendments commence as intended on 1 July 2009, the date which the new regional water and sewerage corporations will commence providing services to the public.

The Bill is split into a number of parts. Firstly, the Bill makes amendment to the *Water and Sewerage Industry Amendment Act 2008*, to insert an interface for the new corporations with permit authorities, particularly councils, with respect to existing approvals processes for building and plumbing permits.

The next parts of the Act makes consequential changes to existing legislation as a result of the new service provision arrangements that will take affect on 1 July 2009. These changes relate to the *Building Act*

2000, the *Local Government (Building and Miscellaneous Provisions) Act 1993* and the *Water Management Act 1999*.

The Bill also provides for an amendment to the *Water and Sewerage Corporations Act 2008*, to improve an aspect of the transfer process through which land will transfer to the new regional corporations

Lastly, the Bill sets up transitional provisions that deal largely with processed and unprocessed permit applications in which, from 1 July 2009, the new corporations will have an interest.

Mr Speaker, I will address each of these elements individually, in greater detail.

The amendments to the *Water and Sewerage Industry Amendment Act 2008* provide an interface for the new corporations with existing building and plumbing permit approval processes administered by permit authorities, particularly councils, under the Building Act.

It was initially envisaged that this interface could be provided for through amendment to subordinate legislation. However, following consultation and detailed investigation, it became clear that the corporations require some specific heads of power.

Under the current arrangements, permit authorities are able to complete an 'in-house' application assessment for building or plumbing works. That is, they would not only assess compliance of structures and installations with the Building and Plumbing Codes in their role as a regulator, but would also ensure there was sufficient capacity for the council, as service provider, to connect water and sewerage services.

However, with the transfer of service provision to the new water and sewerage corporations on 1 July 2009, a consent will be required separately from the relevant water and sewerage corporation for building or plumbing works affecting its infrastructure. The permit authority will be required to have a copy of this consent before it will be able to issue a permit.

The permit approval process under the Building Act, which I will discuss in more detail shortly, will continue the current permit assessment processes, varied only to accommodate the corporations' involvement.

Mr Speaker, I wish to point out that the new interfaces are not expected to add additional time to the current permit assessment process. Such arrangements operate and are common place in other jurisdictions

where there have been separate water and sewerage service providers for some years.

Under the Bill, the corporations will have a two week period to determine consent to applications for building works affecting its infrastructure and a ten day period to assess consent for relevant plumbing works.

These timelines are designed to work in with those that a developer currently faces for assessment of permits. It is expected that, based on education of the relevant parties, building and plumbing consents will typically be requested of the corporations at the same time the certificate of likely compliance is sought under the building permit process, or at the same time a plumbing permit application is lodged with the permit authority.

The permit authority will then be able to complete its processes either following, or concurrently with, the corporations' processing of the consent request. On receipt of a corporations' consent, the permit authority will then be able to determine the permit application.

Mr Speaker, another important feature of this Bill is that it provides the corporations with the ability to develop a policy which exempts from requiring consent certain types of building and plumbing work which the corporations determine are unlikely to detrimentally affects its infrastructure or service provision.

This policy will provide the corporations flexibility to significantly reduce the number of consent applications it has to assess, thereby enabling the development permit process to be further streamlined over time. For example, the corporation may decide it does not need to provide a consent for a standard new residential connection in a currently serviced area as there is no net change to the predicted demand for services.

Mr Speaker there was also strong support during the consultation phase for the corporations to provide a certificate of water and sewerage compliance at the end of a building or plumbing process to confirm that works have been completed consistent with its consent. This Bill provides for this process and will ensure greater certainty for the permit authority in issuing its own occupancy and completion documentation.

Avenues for natural justice have been included in this Bill. The Building Appeal Board will hear any appeals against conditions applied by corporations, a failure by the corporation to grant its consent or any refusal of consent.

The Building Appeal Board currently hears appeals against a permit authority relating to the same infrastructure that will soon be transferred to the corporations. As such, the Bill continues current arrangements, modified to recognise the pending change of service provider.

Mr Speaker, the Bill also makes consequential changes to existing legislation as a result of the amendments to the Water and Sewerage Industry Amendment Act and clarifies an issue that has recently come to light regarding water licences transferring to the corporations.

The amendments to the Building Act are minor and, in fact, most of the changes required to provide for the new permit assessment interface can occur through existing instruments under the Building Act.

More specifically, the current architecture in the Building Act allows for the new corporation's consent to relevant building or plumbing works to be added as a specified document under the Director of Building Control's Specified List. This amendment, which has the support of the Director of Building Control, will ensure the corporations' consent to relevant works will typically be provided with an application for a permit.

The Building Act further states that the permit authority will not be able to issue a permit without a specified document and that the permit will be subject to any conditions attached to a specified document.

As such, the current permit assessment process will be continued, varied only to accommodate the corporations' involvement.

The legislative amendments to the Building Act remove the requirement for the permit authority to administer special plumbing permits in respect to trade waste discharge.

Once the Water and Sewerage Industry Amendment Act is proclaimed, the corporations will have their own powers to manage what is disposed of into their infrastructure and, as the compliance of their wastewater treatment plants is end point regulated, it is more appropriate that they manage what they accept. To support the amendments to the Building Act, a number of changes to subordinate legislation have also been drafted and these will be submitted to Executive Council following consideration of this Bill.

Mr Speaker, a minor amendment to the Local Government (Building and Miscellaneous Provisions Act) is also required.

Under the current arrangements, councils, as water and sewerage service providers, can require that a final plan of subdivision note that water or sewerage services cannot be provided to a block.

An amendment has been made to ensure that in the future a regulated entity may advise a council of such a circumstance and the council can continue to require that this information be added to the plan of subdivision.

This amendment will maintain an important discovery mechanism for property buyers, as plans of subdivision are added to the finalised title for a block.

Mr Speaker, it has recently come to light that the current status of some urban water licences issued to councils under clause 12 of Schedule 4 of the Water Management Act 1999 requires clarification.

The need for clarification dates back to the introduction of the Local Government (Building and Miscellaneous Provisions) Act, which, when repealing the *Local Government Act 1962*, did not continue appropriate powers relating to “sources of supply” which would then allow the savings provisions in the Water Management Act to have effect.

Consequently, to ensure the new corporations are transferred appropriate water licences, the Bill provides that licences granted under Clause 12 of Schedule 4 are taken to be validly granted.

In addition, some licences were issued for a period of less than 50 years, which is at odds with provisions in Clause 12(2) of the Water Management Act. The Bill provides that where this occurred the licenses are deemed to have been issued for 50 years.

Mr Speaker, the proposed amendment to the Water and Sewerage Corporations Act will provide for the transfer of interests in part, or parts, of land under that Act.

This amendment will streamline and improve the transfer of land to the new corporations and will, for example, enable the transfer of appropriately sized individual land holdings to the new water and sewerage corporations that reflect the agreed position between councils and the new corporations.

Without this amendment, Councils will only be able to transfer entire land holdings and not just the parts specifically involved in water and

sewerage activities. This would restrict the ability of parties to tailor outcomes to their needs and to specific circumstances.

Mr Speaker, Councils have indicated the need for this amendment as they have provided Treasury with lists of parts of land suitable for transfer under this proposed amendment.

Mr Speaker, the transitional provisions in the Bill deal largely with existing planning, building and plumbing permit applications that have entered the system, but which by 1 July 2009 will be yet to be processed. Transitional provisions have been drafted to ensure the new corporations are adequately consulted on such applications and that the corporations and permit holders honour already approved permit conditions and agreements relevant to water and sewerage.

Mr Speaker, I commend this Bill to the House.