

## **URBAN DRAINAGE BILL 2013**

### **FACT SHEET**

This Bill replaces the *Drains Act 1954* with modern and fit-for-purpose stormwater management legislation. It does not represent a change in the Government's policy. It will have essentially the same effect as the legislation it replaces.

The Bill enhances and simplifies the powers and obligations under the Drains Act to reflect the current operating environment and facilitate the continued provision of stormwater drainage services by councils.

The need to replace the Drains Act became apparent through a review of Tasmanian stormwater legislation conducted by the Department of Primary Industries, Parks, Water and Environment. The review identified that the current regulatory framework does not meet the contemporary needs of councils to provide services in an holistic and sustainable manner. The Act was also drafted in a form that is ambiguous and out-of-date.

The objective of this Bill is to protect the community by ensuring the safe and sustainable provision of stormwater services. The key elements of the Bill provide:

- councils with a non-delegable duty to effectively drain the urban parts of their municipal areas;
- councils and infrastructure owners with a formalised structure for negotiating arrangements for councils to access infrastructure that is owned and operated by a third party, for stormwater purposes;
- that a council must develop a stormwater system management plan for its municipal area;
- that a person may be connected or disconnected from a stormwater system in certain circumstances; and
- councils with the necessary operational powers to ensure the operation and protection of stormwater management systems.

Throughout the review of the Drains Act and the development of the Bill the local government sector clearly and consistently identified that the provision of stormwater services should remain a local government responsibility. The Bill makes the provision of stormwater services for urban areas a clear obligation for local councils.

A council's obligation to supply stormwater services is not contingent upon the ownership of particular assets. The Bill specifically provides for the consensual use of third party infrastructure to provide drainage services. This is on the basis that infrastructure owners should be fairly compensated for allowing use of their infrastructure and councils should have a sufficient level of protection to ensure that they are not overcharged.

In situations where agreement for a council to discharge stormwater into a third party's infrastructure cannot be reached, the Bill provides for an arbitration process imposed under the *Commercial Arbitration Act 2011*. In making a determination, the arbitrator must endeavour to achieve the best outcomes for the community. This means that price shocks and cross subsidisation should be minimised and there should be an equitable distribution of costs.

This approach to dispute resolution in the Bill is also consistent with the existing regulatory framework under the Drains Act. The Bill clarifies the existing provisions to provide certainty for all parties.