

# **WATER AND SEWERAGE INDUSTRY BILL 2008**

## **Second Reading**

**Mr AIRD** (Derwent - Treasurer - 2R) - Mr President, I move –

That the bill be now read the second time.

This bill, the Water and Sewerage Industry Bill 2008, provides for the establishment of enhanced regulatory arrangements for Tasmania's water and sewerage sector. It forms part of a new framework that will meet the growing challenges ahead for the sector in Tasmania. New structural arrangements have been detailed separately in the Water and Sewerage Corporations Bill 2008.

Mr President, the Water and Sewerage Industry Bill 2008 supports the sustainable operation of the water and sewerage sector and the protection of customers through ensuring that services will meet community and business needs both now and into the future.

This bill represents the culmination of broad and extensive public consultation on regulatory reform.

In the second half of 2007 over 160 stakeholders, representing a wide range of stakeholder groups, attended statewide workshops and seminars which have helped develop elements of the framework provided for in this bill. There have been numerous discussions with individual stakeholders and over 30 written submissions were received in response to the initial Position Paper - Future Regulation of the Tasmanian Water and Sewerage Sector, which was released in late November 2007.

Comments on a follow-up paper, which provided more detail, particularly on how the proposed pricing framework will operate, closed on 20 March 2008. The feedback from this paper will assist in the development of the regulations made under this bill.

Mr President, the current regulatory framework is not driving service providers to meet accepted modern environmental and public health standards and does not have the proper mechanisms in place to ensure that appropriate outcomes are achieved. Additionally, financial returns in the sector are at a level which does not support long-term sustainability or, importantly, the appropriate use of debt to fund these long-life assets.

Investment approaching \$1 billion over the next decade is required just to bring the sector as a whole up to an appropriate standard. Further, Tasmania's water and sewerage service providers have not been subject to direct price regulation. This is inconsistent with our commitments under the National Water Initiative agreement between the Commonwealth and the States.

Compliance with the National Water Initiative will improve Tasmania's position in securing Federal funding to assist the water and sewerage sector. Such price regulation will achieve more sustainable outcomes, thereby driving critical investment in areas in which it is most needed and valued.

There is also no consistent pricing methodology adopted across the State. Some prices are based on value of property, some on pipe size and many areas do not include price components based on the amount of water consumed, otherwise known as a volumetric charge. Not including a volumetric component is inefficient, it leads to significant and inequitable cross subsidies and is not driven by the basic premise of user pays. In short, Mr President, economic regulation of the sector is a decade behind that in most other states and we must address this.

For these reasons, this bill will implement a number of new and revised arrangements. The key elements of the new regulatory regime include:

- (1) implementation of a comprehensive and fully integrated operating licence regime for participants;
- (2) the introduction of independent regulation of prices for regulated services;
- (3) establishing a customer service standard setting framework that will mandate minimum standards;
- (4) introducing a requirement for licensed entities to provide a Price and Service Plan, similar to Victoria's Water Plans, which will require licensed entities to adopt enhanced asset management planning;
- (5) limiting duplication between activities of existing technical regulators and the economic regulator;
- (6) introducing enhanced public performance reporting requirements; and
- (7) establishing an ombudsman role for the sector to deal with customer complaints.

Mr President, I will address each of these elements in turn.

The establishment of an operating licence regime for the sector will regulate the ownership and operation of water and sewerage facilities, for the purpose of providing services in the sector.

The licensing regime will provide a transparent means by which the various regulatory obligations placed on a service provider can be brought together in a single regulatory instrument. This will include bringing together the obligations contained within this bill with those in other existing legislation.

The terms and conditions of all operating licences will be publicly available and will include a requirement for a formal reporting process on an annual basis. This will ensure the transparent documentation of a business's performance against its licence requirements. It will provide appropriate checks and balances on the operation of the licensed entity and will highlight any need for policy adjustment on the part of the Government of the day.

The reporting feature will also allow for 'competition by comparison' between the three regional businesses to be established under the Water and Sewerage Corporations Bill. Comparison will allow customers to assess the relative performance of their provider, even if they are not able to choose an alternative provider. In other words, there will be enough publicly available information and opportunity for performance assessment with which to make each of the three regional corporations accountable for their operational and financial efficiency. On top of this, an economic regulator will undertake close periodic scrutiny of their pricing regimes.

Mr President, this bill also provides the power for the minister to create a licence condition that requires a service provider to be a reserve, or last resort, provider for a geographical area. This means that, once connected, customers within a serviced area will not be unfairly excluded from receiving water and sewerage services. Furthermore, where services become available in areas that reticulated water and/or sewerage services were not previously available, common customer terms and conditions will allow for new connections to be made. This will also provide an initial focus for the regional businesses and ensure that all current water and sewerage customers will be serviced.

Mr President, the bill provides for the creation of an independent economic regulator for the sector. The Regulator will administer the licensing regime and will also have the power to determine prices, and for some services pricing policies, with which licensed businesses will need to comply. The Regulator will set prices that are fair and reflect the efficient costs of operating and maintaining the water and sewerage network. In some aspects, such as for headworks charges, the Regulator may set pricing policies that will need to be followed by licensed businesses, not the actual charge.

The bill establishes the initial services to be regulated as including water and sewerage services currently provided by the three existing bulk water authorities and councils, including reuse schemes. However, this excludes the activities of entities operating outside the sector, such as irrigation, hydro electricity generation and stormwater.

In future, the Minister for Water may declare other services to be regulated as required.

The bill also provides that in making price determinations, the Regulator must ensure that a two-part pricing methodology is adopted by licensed entities that are providing water services to customers. Two-part pricing is commonly accepted in Australia as best practice for water pricing. It is consistent with an undertaking made by the State in its National Water Initiative Agreement with the Australian Government to implement consumption-based, user-pays, pricing for water and sewerage services. Two-part pricing is a method of charging for water where users are charged a fixed cost which reflects capital costs and a volumetric charge, based on the variable costs of water supply.

There are many residences and businesses in Tasmania who currently pay for water on the basis of assessed annual value of property, but who do not have comparable water usage. I believe it is not equitable for an elderly couple to pay the same for their water usage as a family of five living next door or a household with a swimming pool. It is, however, important to understand that two-part pricing does not require the immediate roll-out of meters to those parts of the State that do not currently have meters.

There is a range of possible approaches to support two-part pricing. These include customer profiling, the voluntary take-up of metering and the mandatory take-up of metering over an extended period. But already 18 of the 29 councils meter water supplies and other councils have meters installed but are yet to price on this basis.

I believe the approach across the State should be consistent if the costs of regulation and service delivery are to be minimised. But no decision on metering has been made and the Regulator's input on the extent and timing of any metering program will be important.

I emphasise that any changes will be made over a sensible transition period. As we have with electricity concessions, the Government will be providing financial assistance to low income groups in the community to ensure any possible price impacts are minimised.

Mr President, by explicitly stating the objectives of the act, and matters to which the Regulator is to have regard, the bill ensures that the Regulator will consider the long-term interests of consumers, the sustainable operation of the industry and the rate of change of any price increases required in making his or her decisions. This will provide important guidance to the Regulator, which will inform his or her decision-making.

Mr President, the bill also establishes a formal customer service standards framework for the sector. This will be similar to the framework operating in electricity and will replace the self-determined standards that are currently set by the bulk water authorities and councils. This framework will be developed by the Regulator, by a process that will enable both service providers and customers to have a voice in setting the performance benchmarks for the sector. The framework will allow for differentiated service standards based on geography, customer density and other relevant considerations. However, there will also be minimum standards of service developed by the Minister through regulation that will not be negotiable, so that public health and environmental values are guaranteed.

The customer service standards framework will be directly linked to the price paid by the customer for the service they receive. For example, those who get faster response times, or who wish to have greater security of supply, will pay more for this benefit than others who do not. Again, we are establishing a framework that will be as fair as it can be for customers.

Mr President, another new element referenced in this bill will be mandated asset management planning. Currently, only around half of the State's councils have done asset condition assessments and approximately 70 per cent do not have strategic asset management plans for their water and sewerage services. We need to remedy this.

In the absence of such planning, a service provider cannot fully understand the capital and operational costs associated with running its assets and, therefore, can not price appropriately for asset sustainability in usage, through maintenance expenditure, or for planned asset replacement.

Under this new framework, asset management plans developed by the regulated entity will be oversighted by the Regulator through a guideline, which will be designed to support the broader Price and Service Plan process, a point I will come back to shortly.

The asset management plans will need to reflect the required customer service standards and expected network demand growth in order to be an appropriate basis for the development of a Price and Service Plan. As previously flagged, outside of the requirements of this bill there are other regulatory obligations that the licensed businesses will continue to be subject to and which will impact on their costs.

Two key obligations are those imposed by the Director of Public Health, in terms of water quality; and the Director of Environmental Management, regarding wastewater treatment and re-use. To ensure that the water and sewerage Regulator is adequately informed of these obligations when developing customer service standards and in assessing the Price and Service

Plan, the bill provides that the Regulator must consult with the Director of Public Health, the Director of Environmental Management and the Secretary of the Department of Primary Industries and Water on a yearly basis when developing a State of the Industry Report. This report will provide a strategic snapshot of the performance of the sector and identify key priorities going forward. It will be a requirement for the report to be tabled in Parliament in April of each year and it will be a key element of the improved accountability and transparency that will characterise the water and sewerage sector in the future.

Mr President, the service delivery obligations of regulated entities require an adequate revenue stream. In the past we have seen, for a number of reasons, councils unable to recover appropriate revenue to run the sector sustainably. However, this bill provides a mechanism to arrive at a transparent understanding of the minimum revenue requirements that will support sustainable businesses. This mechanism is called a Price and Service Plan and it will be a requirement that a regulated business submit one to the Regulator in respect of each regulatory period. This plan will essentially be a business case, which justifies the revenues and prices needed by the business to meet its regulatory and service obligations for the period.

Consultation with customers on the development of the Price and Service Plan will be a mandatory element of the development of this plan. The Price and Service Plan will reflect the customer services standards the business has to meet and the asset management plan it must develop.

The length of the regulatory period covered by the Price and Service Plan will be determined by the Regulator. However, a five year period is common. Where licensed service providers have a regulatory obligation to meet, for example a requirement to upgrade a sewerage treatment plant, and have satisfied the Regulator through the Price and Service Plan that they intend to meet the obligation in a cost efficient manner over an appropriate timeframe, the Regulator will approve the recovery of necessary revenue for that plant. The Price and Services Plan is a critical element of appropriate and transparent decision making and will be an important tool for both the licensee, customers and the Regulator.

Mr President, this bill also provides for formal complaint and dispute processes to be developed. In essence, this will allow for customers to lodge a complaint with a service provider and if that complaint is disputed by the provider, it may be reviewed under a formal ombudsman process. The Tasmanian Ombudsman will play that role for the sector.

The bill also provides for administrative review of the Regulator's pricing determinations and licensing decisions, which is based on the process that currently exists in regulating prices for the Tasmanian electricity market.

Mr President, this bill, in combination with the Water and Sewerage Corporations Bill 2008, represents an important step towards addressing the pressing challenges facing the sector. However, the task is substantial and it will take several years to fully implement all the new arrangements.

To assist in transitioning to the new regulatory framework, the bill provides for the Treasurer to issue a transitional pricing order, which requires the Treasurer to seek the advice of the Regulator on the directions in that order. It is intended that this order will apply to councils and then to the new regional authorities. It will cover the period up until the first pricing determination by the Regulator, which is not, however, likely to be until after 2011-12.

The bill also provides for interim licences to be issued for a period of up to two years to persons who currently own or operate water and sewerage infrastructure. The Minister has the power to exempt unlicensed service providers from the requirement to hold an interim licence, except for the new regional water and sewerage corporations, which may be granted an Interim licence.

Mr President, aside from transition lead times, the timeliness of the approval of this bill is critical for three other important reasons. Most importantly, the passage of this bill will provide certainty to employees in the sector and to councils as the current service providers. Secondly, it allows the Regulator to promptly start collecting data and establishing systems for pricing investigations. This is a very detailed role and one which generally requires significant lead time. Finally, it will provide the new businesses to be established through the Corporations Bill with an understanding of the core elements of the regulatory framework.

Without this context, the businesses will not be able to make informed start-up operational and resourcing decisions. Accordingly, this bill does not attempt to deal with the numerous consequential amendments to the many acts that assist to regulate water and sewerage activities. Nor does it seek to deal with all detailed operational and standard matters associated with moving to the new regulatory arrangements. These matters will be addressed in a Consequential Amendments and Transitional Bill and this is expected to be introduced into Parliament in the Spring sitting of 2008.

The Water and Sewerage Industry Bill 2008 and the Water and Sewerage Corporations Bill 2008 need to be in place as law as soon as possible, so that all issues relating to the Consequential Amendments and Transitional Bill can be informed by feedback from the boards and CEOs of the new corporations.

Timely passage of the Water and Sewerage bills will also provide certainty to the Tasmanian community, employees in the sector, and to councils. Matters to be dealt with in the Consequential Amendments and Transitional Bill will include repeal of powers and obligations currently contained in other legislation that will, because of structural reform, become redundant.

Some of the powers now in the Local Government Act, the Sewers and Drains Act, the Waterworks Clauses Act, and the Water Management Act fall into this category. In addition, it will be necessary to provide additional operational rights and obligations to the new businesses in areas such as entry to land to undertake works and read meters.

This bill will also be supported by the development of subordinate legislation before the end of 2008.

The initial tariff order, which will set a framework for interim pricing prior to the commencement of the formal Price and Service Plan process, will also be in place as soon as practicable and ideally before the end of the year so that interim pricing arrangements can commence for the 2009-10 financial year.

Mr President, this bill represents a significant reform for the water and sewerage sector, though its provisions are not unique to this sector in other jurisdictions, or to other monopoly network infrastructure. It is, however, an accepted economic regulatory framework that has operated in other jurisdictions for more than a decade. What we have done is to use the experience in other states to develop a best-of-breed framework which provides the right balance of flexibility, protection and clarity for licensed businesses and for customers. This is a solid platform upon which we can move this sector to a self-sustaining footing.

With 14 per cent of Australia's water resource on only 1 per cent of the land, Tasmania has the potential to develop a significant competitive advantage over the rest of Australia if this sector is better managed.

Mr President, I believe this bill provides for this improved management of the water and sewerage sector through a significantly more accountable, transparent and enhanced regulatory framework.

Mr President, I move the second reading of this bill and commend the bill to the House