

Water and Another Act Amendment Bill 2009

Explanatory Notes for Amendments to be Moved During Consideration in Detail by the Honourable Stephen Robertson MP

Title of the Bill

Water and Another Act Amendment Bill 2009

Objective of the amendments

The amendments to be moved during consideration in detail amend chapter 2A (Water supply and demand management) of the *Water Act 2000* (Water Act) to make provision for the Minister to give written directions to the Queensland Water Commission (the Commission) in exceptional circumstances and in the public interest.

Reasons for the objective and how it will be achieved

The Water Act currently provides that the Minister may direct the Commission to provide advice to the Minister on matters relating to water supply and demand management in the south east Queensland (SEQ) region, designated regions or more generally. In addition, where the Commission has already provided regional security options to Government, the Minister may publish a gazette notice requiring the Commission to update or revise the options, having regard to the implementation of the relevant water security program.

The amendments to be moved during consideration in detail will enable the Minister to give written directions to the Commission in relation to the performance of only its non-advisory functions. The limits are intended to safeguard the role of the Commission in relation to providing advice to Government. This direction power further advances the purpose of Chapter 2A to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and designated regions.

Alternatives to the amendments

There are no other viable alternatives that would achieve the policy objectives other than these amendments.

Estimated cost for Government for implementation

These amendments will not impose any additional financial burden on the Government.

Consistency with fundamental legislative principles

These amendments are consistent with the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Community

There has been no community consultation.

Government

The Department of the Premier and Cabinet has been consulted and supports the amendments.

Notes on Provisions

1 Insertion of new s 343A

New section 343A Commission not generally subject to direction

Clause 1 of the amendments to be moved during consideration in detail inserts a new clause 3A into the Bill. This clause inserts a new section 343A into the Water Act to clarify that the Commission is not otherwise subject to direction.

2 Insertion of new ch 2A, pt 7

New Part 7 Minister's reserve power

Clause 2 of the amendments to be moved during consideration in detail inserts a new clause 6A into the Bill. This clause inserts a new part 7 into chapter 2A (Water supply and demand management) of the Water Act, providing for the reserve power of the Minister.

New section 360ZH Public interest directions for commission's non-advisory functions

New section 360ZH provides for the Minister to give written directions to the Commission about the performance of certain functions and powers of the Commission. The Minister may only give written directions where there are exceptional circumstances, the direction is necessary in the public interest and following consultation with the Commission. The Minister is only required to publish a copy of the direction in the Gazette within 15 days after it is given. The direction may suspend the operation of another instrument previously made or given under the Water Act.

Importantly, this new section establishes limits regarding the direction that the Minister can give to the Commission. The direction can only be given in relation to the Commission's non-advisory functions and powers. For example, the direction could be given in relation to the Commission's functions and powers to facilitate and implement a regional water security program or impose restrictions on water supply. However, a direction could not be given about the Commission's role in advising the Minister on matters relating to water supply and demand management or regional water security options. These limits are intended to safeguard the role of the Commission in relation to its function of providing advice to Government.

New section 360ZI Relationship with other instruments under Act

New section 360ZI clarifies that where there is an inconsistency between a direction given by the Minister and another instrument made under the Water Act the direction prevails. Similarly, where a direction affects the operation of another instrument, it does not amend the other instrument.

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