

Underground water management: Committee recommends passing of new water laws

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The Queensland Parliament's Agriculture and Environment Committee tabled its report on the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016* (**the Bill**) late yesterday afternoon.

You can find the Committee's report [here](#).

In this Alert, Partner Martin Klapper and Law Graduate Ruby Rayner briefly comment on the Committee's report.

Highlights

The Committee recommended that the legislation be passed. It did not recommend any amendments. Consequently, it seems likely that the Bill will be passed. Current indications are that the Bill is intended to commence from 6 December 2016; however, that date is not set in stone.

Committee rejects coal industry's concerns about advanced projects

The Committee received a number of submissions from coal mine operators and project proponents to the effect that the industry had proceeded on the basis of existing law and the anticipated commencement of the WROLA Act (passed in 2014 but which has not yet commenced). The Act proposed to introduce new underground water rights for coal miners; essentially, rights to take water in the course of dewatering pits or to ensure the safe operation of a coal mine.

Resources industry representatives also opposed the transitional provisions on the grounds that advanced projects that have already undergone environmental assessment and public submission will be required to undergo additional assessment of groundwater impacts and be subject to further public submissions and potential appeals.

Disappointingly, the industry's concerns were dismissed in this fashion:

- The Committee noted the coal industry's concerns about associated water licences, but stated that *"the mining licence [sic] holders who have voiced their opposition to the transitional provisions are large scale operators for whom the administrative overhead required by assessment processes is an accepted cost of doing business."*
- The Committee acknowledged but rejected criticism that there had been little or no consultation for the new laws, stating that the new regime had been developed in response to issues that arose during consultation for the WROLA Act in 2015. It considered that *"the level of consultation has been appropriate."*
- Finally, the Committee stated that coal operators have been *"aware of the potential for legislative amendment ... and affected mining licence holders have had sufficient time to apply for a water licence under the currently applicable provisions of the Water Act, or prepare themselves to do so."*

The Committee's comment appears to have ignored, or at least not to have accepted, the industry's

concern that the imposition of an additional water licensing process for late stage projects presents a realistic concern and a barrier to investment.

Committee urges Parliament to consider the cost of delaying expansion of established projects

Somewhat encouragingly, the Committee also recommended that the Minister examine the impact of the new underground water management law on relevant mining lease holders' short-term prospects, and particularly the "flow-on impacts of any interruption of production at New Acland, and in similar projects."

The Committee urged the Minister to consider the resulting impacts of potential job losses on affected communities, and present these findings in the Bill's second reading speech.

It is not readily apparent how the Minister's "findings" might impact on the delays in water licence application, objection and appeal process.

Ecologically sustainable development

The Committee declined to recommend the reinstatement of an express requirement for compliance with ecologically sustainable development principles under the Water Act and for the proposed "associated water licences".

While the Committee received numerous submissions concerning the ESD principles, it commented that it was *"satisfied that the standard by which applications for environmental authorities are assessed will not be significantly lower than that currently obtaining for water licence applications."*

What's next?

It seems overwhelmingly likely that the Bill will be passed in its present form.

Coal mining lease holders and applicants should now take steps to ensure that they will be compliant with the new regime from (as is expected) 6 December 2016, and where necessary apply for and obtain the necessary water licences or be prepared to apply for an "associated water licence" under the new legislation, when it commences.

For further information or discussion, please contact HopgoodGanim Lawyers' [Resources & Energy](#) team.

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