

# DEPARTMENT OF NATURAL RESOURCES & MINES

## Planning Guidelines for Water Supply and Sewerage

### Chapter 1

## THE REGULATORY FRAMEWORK

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## **The Regulatory Framework**

### **1.0 Purpose**

The purpose of this chapter is to provide an overview of the regulatory framework as it applies to the planning of water supply and sewerage services.

### **2.0 Key Principles**

Planners must be aware of the regulatory framework and its potential impacts on options and implementation programs relating to the provision of water supply and sewerage services.

### **3.0 Why is This Important?**

Properly managed water supply and sewerage services are essential for the maintenance of public health and ensuring the wellbeing of communities. Poorly managed water supply and sewerage services can threaten public health and result in environmental harm. To ensure that these services are properly managed a significant legislative and regulatory framework exists that must be complied with by those responsible for the provision and management of these services

It is important that planners are aware of the legislative and regulatory framework relating to water supply and sewerage services because:

- Non compliance may result in prosecution or loss of reputation.
- Community health and wellbeing may be threatened.
- Significant project delays may result in order to rectify failures of compliance with approvals processes.
- Projects and approval processes may have regulator imposed deadlines.
- Financial and other incentives from State and Federal Governments may apply.

To ensure implementation of “best practice” and to minimise risk, planners should keep abreast of new or updated standards, guidelines and codes.

### **4.0 When is Knowledge of the Regulatory Framework Required?**

Maintaining and updating knowledge of the regulatory framework (Federal, State and Local Government), standards, guidelines and codes is an important ongoing process for all planners. Ignorance of regulatory requirements and standards etc is not a defence against legal action.

### **5.0 Key Elements**

Table 5.1 provides a summary of the key matters to be addressed by certain legislation in relation to water supply and sewerage provision. It is not a summary of all the legislation which may directly or indirectly apply to these services. It must be recognised that the whole legal framework can impact on various aspects of the provision of these services. Planners should obtain their own legal advice to ensure they comply with legislative requirements.

**TABLE 5.1 – Overview of Regulatory Framework**

<b>Act</b> (includes subordinate legislation under the Act)	<b>Summary Requirements</b>
<i>Water Act 2000</i>	The powers and obligations for service providers in providing water and sewerage services: <ul style="list-style-type: none"> <li>▪ Service provider must be registered.</li> <li>▪ Preparation of:                             <ul style="list-style-type: none"> <li>○ Strategic Asset Management Plan (SAMP) and Customer Service Standards (CSS).</li> <li>○ System Leakage Management Plans</li> <li>○ Drought Management Plans</li> </ul> </li> <li>▪ Requirements also include                             <ul style="list-style-type: none"> <li>○ annual reporting</li> <li>○ regular reviews and audits.</li> </ul> </li> </ul> Power of entry provisions (restricted to matters relating to service provider's infrastructure)  Water allocation/access to water resources.  Construction of a Dam: <ul style="list-style-type: none"> <li>▪ Subject to size parameters set out in the Act, a failure impact assessment may need to be undertaken to determine if structure is a referable dam.</li> <li>▪ For certain dams preparation of a flood mitigation manual is required.</li> <li>▪ Development permit required (refer section on Integrated Planning Act).</li> </ul> Work within a watercourse, lake or spring – Permit required from NR&M.
<i>Aboriginal Cultural Heritage Act 2003</i>  <i>Torres Strait Islander Cultural Heritage Act 2003</i>	Cultural heritage duty of care. Development or activity impacting on Aboriginal or Torres Strait Islander cultural heritage – Cultural Heritage Management Plan is to be developed under certain circumstances. Aboriginal Cultural Heritage and Torres Strait Islander Cultural Heritage Databases and Registers to be consulted.
<i>Acquisition of Land Act 1997</i>	Defines a local government's powers and responsibilities, as a constructing authority, for taking land (resumptions, easements).
<i>Coastal Protection and Management Act 1995</i>	For work within/across a tidal area or waterway - riverine protection permit required from NR&M.
<i>Community Services (Torres Strait) Act 1984</i>	Powers and responsibilities for management of Island Council areas.
Council Regulations	Project impacts on an area with a Vegetation Protection Order (VPO) – Council approval required to destroy or interfere with vegetation under a VPO
<i>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</i>	Commonwealth assessment and approval regime to be followed for any project or an activity that impacts on: <ul style="list-style-type: none"> <li>▪ World Heritage properties (eg Great Barrier Reef, Wet Tropics or Fraser Island)</li> <li>▪ a Ramsar wetland of international importance (eg Moreton Bay, Great Sandy Strait, Bowling Green Bay)</li> <li>▪ migratory species, threatened species or ecological communities listed under commonwealth legislation.</li> </ul>

<b>Act</b> (includes subordinate legislation under the Act)	<b>Summary Requirements</b>
<p><i>Environmental Protection Act 1994</i></p> <p><i>Environmental Protection Regulation 1998</i></p> <p><i>Environmental Protection (Water) Policy 1997</i></p> <p><i>Environmental Protection (Noise) Policy 1997</i></p> <p><i>Environmental Protection (Air) Policy 1997</i></p>	<p>The Environmental Protection Agency sets licence conditions for Environmentally Relevant Activities (ERA's) (both water and sewage treatment plants) under the Act.</p> <p>Development Approvals – IDAS process needs to be followed:</p> <ul style="list-style-type: none"> <li>▪ Upgrading or constructing sewage treatment plant for 21 or more EP.</li> <li>▪ Upgrading or constructing water treatment plant.</li> </ul> <p>Environmental authority required to operate:</p> <ul style="list-style-type: none"> <li>▪ sewage treatment plant for 21 or more EP</li> <li>▪ water treatment plant (other than treatment that only involves disinfection).</li> </ul> <p>Sludge/biosolids management:                      [refer EPA's Operational Policy "Management for beneficial reuse of biosolids from sewage treatment plants (STP) and other sources"]</p> <ul style="list-style-type: none"> <li>▪ For beneficial use of biosolids on land, the EPA uses the Environmental Management Program (EMP) process.</li> <li>▪ Sludge/biosolids disposal will require an environmental authority.</li> <li>▪ Site Management Plan will be required for contaminated sites listed on the Environment Management Register.</li> </ul> <p>Environmental Protection Policies:</p> <ul style="list-style-type: none"> <li>▪ Water:                             <ul style="list-style-type: none"> <li>○ Preparation of Environmental Plans by the local government                                     <ul style="list-style-type: none"> <li>▪ sewage management (ie I/I management)</li> <li>▪ trade waste management</li> <li>▪ water conservation management</li> </ul> </li> <li>○ .On-site domestic wastewater treatment systems – cumulative impacts.</li> </ul> </li> <li>▪ Noise and Air.</li> </ul> <p>The Act defines the process for undertaking an EIS when required.</p> <p>Work within/across non-tidal or fresh waterway (ie bed or banks of a creek) – Dredging permit required from EPA.</p> <p>Removal of soil from site – determine if site listed on Environmental Management Register. Then a Site Management Plan is required.</p>
<p><i>Financial Administration and Audit Act 1977</i></p>	<p>Financial management policies and principles in relation to State Government departments and statutory bodies.</p>
<p><i>Fisheries Act 1994</i></p>	<p>Construction of a waterway barrier – approval required from the Department of Primary Industries and Fisheries (DPI&amp;F).</p> <p>Direct impact of construction through a mangrove/wetland – Section 51 approval required from DPI&amp;F.</p> <p>Indirect impact (construction adjacent to or future operation) on a mangrove/wetland – Section 51 approval required from DPI&amp;F.</p>

<b>Act</b> (includes subordinate legislation under the Act)	<b>Summary Requirements</b>
<i>Great Barrier Reef Marine Park Act 1975 (Commonwealth)</i> <i>Great Barrier Reef Marine Park Regulations 1993.</i> Sewage Policy 1991 (amendment 1993)	Tertiary treatment standard, as defined in the Regulation, required for discharge of effluent from fixed structures on islands into the Great Barrier Reef Marine Park.
<i>Health Act 1937</i>	Provision of water or sewerage services including reuse - general requirements in relation to: <ul style="list-style-type: none"> <li>▪ Local government to act to prevent the occurrence of a notifiable disease within its area.</li> <li>▪ Prohibition on business activity that is a nuisance or injurious to the health of any of the inhabitants of an area.</li> <li>▪ Provisions for mosquito and vermin control.</li> <li>▪ Prohibition of the carrying off of sewage or stormwater drainage to particular places.</li> </ul>
<i>Integrated Planning Act 1997</i>	Assessable development requiring the Integrated Development Approval System (IDAS) to be followed for the following activities (see Schedule 8 of the Act for details): <ul style="list-style-type: none"> <li>▪ Development undertaken on a registered place under the <i>Queensland Heritage Act 1992</i>.</li> <li>▪ Work involving clearing of native vegetation.</li> <li>▪ Operational and construction work for taking or interfering with water under the <i>Water Act 2000</i>:               <ul style="list-style-type: none"> <li>○ Taking, or interfering with, water from a watercourse, lake or spring or from a dam constructed on a watercourse.</li> <li>○ Taking, or interfering with, artesian water.</li> <li>○ Taking, or interfering with:                   <ul style="list-style-type: none"> <li>▪ overland flow water; or</li> <li>▪ sub-artesian water;</li> </ul> </li> <li>○ Controlling the flow of water into or out of a watercourse, lake or spring in a specified area declared under the <i>Water Act 2000</i>.</li> </ul> </li> <li>▪ Construction of a referable dam under the <i>Water Act 2000</i>.</li> <li>▪ Increase in the storage capacity of a referable dam by more than 10%.</li> <li>▪ Tidal works.</li> <li>▪ Works carried out completely or partly within a coastal management district.</li> <li>▪ Reconfiguring a lot under the <i>Land Title Act 1994</i>.</li> <li>▪ Development prescribed under a regulation under the <i>Environmental Protection Act 1994</i> as an environmentally relevant activity (eg water and sewage treatment plants).</li> </ul> Preparation of Infrastructure Charges Schedule or Infrastructure Agreement .  Infrastructure standards included in local government's planning scheme / planning scheme policy.

<b>Act</b> (includes subordinate legislation under the Act)	<b>Summary Requirements</b>
<i>Land Protection (Pest and Stock Route Management) Act 2002</i>	Requirements for declared pests and pest management plans - may be relevant to water supply catchments, storages (declared water weeds and other pests).
<i>Local Government Act 1993</i>	Policies and principles in relation to local government financial management, corporate and operational plans, National Competition Policy, full cost pricing.  Provides powers for charging for water and sewerage services.  Power of entry provisions.
<i>Local Government (Community Government Areas) Act 2004</i>	Declares Aboriginal councils as local governments (shire councils) Under the <i>Local Government Act 1993</i> and aligns their governance with the <i>Local Government Act 1993</i> .
<i>National Measurement Act 1960 (Commonwealth)</i>	Requirements in relation to water meters. From 1 July 2004 all new domestic water meters need to have pattern approval, verification and reverification.
<i>Native Title Act 1993 (Commonwealth)</i> <i>Native Title (Queensland) Act 1993</i>	Access and impacts on land subject to Native Title.
<i>Plumbing and Drainage Act 2002</i>	Construction of a sewage treatment works less than 21EP and on-site land application of effluent.  Greywater use in sewerred areas (late 2005).  Technical standards specified in On-site Sewerage Code (or Queensland Plumbing and Wastewater Code when adopted late 2005).
<i>Queensland Competition Authority Act 1997</i>	Pricing of water and sewerage services.  Compliance with National Competition Policy principles.
<i>Queensland Heritage Act 1992</i>	Conservation of Queensland's cultural heritage.
<i>Statutory Bodies Financial Arrangements Act 1982</i>	Management of the powers of statutory bodies including local governments to enter into financial arrangements.
<i>Trade Practices Act 1994 (Commonwealth)</i>	Provision of water and sewerage services including effluent recycling – product “fit for purpose” and liability issues.
<i>Vegetation Management Act 1999</i>	Regulates the clearing of vegetation.
<i>Wet Tropics World Heritage Protection and Management Act 1993</i>	Establishes the Wet Tropics Management Authority and sets constraints on certain activities in wet tropics area.
<i>Workplace Health &amp; Safety Act 1995</i>	Defines the obligation to prevent a person's death, injury or illness being caused by a workplace, by workplace activities or by specified high risk plant.

## 6.0 Checklist

Have all compliance issues been considered in the planning studies and have all relevant regulatory bodies been consulted?

Has sufficient allowance been made in the implementation program for obtaining relevant approvals?

Is there a need for specific legal advice?

## 7.0 Bibliography

Australian Office of Parliamentary Counsel (<http://www.opc.gov.au/acts/index.htm>)

Great Barrier Reef Marine Park Authority – policies and legislation (<http://www.gbrmpa.gov.au/>)

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