



Holly
Cooper/VICMIN@VICM
IN

04/10/2007 12:18 PM

To William Sykes/Nat/PARL@PARL

cc

bcc

Subject Emergency Services Legislation Amendment Bill.

Hi Bill,

I have sought some clarification on the issues you raised with me yesterday re the Emergency Services Legislation Amendment Bill.

I can reassure you that the Bill does not change any of the arrangements for either taking water, the sources of water which can be taken or the form of compensation/process for claiming compensation when water is taken. The only change is the explicit mention that water can also now be used for other emergencies, such as chemical spills.

The clear power of taking water from a dam and other sources is at section 30(1)(e) of the CURRENT Act. As the new Bill does not make any amendments to this provision, this is simply the status quo.

Section 30(1)(e) provides that the Chief Officer '...may enter or give directions for entering any land or premises and may **take ... water from any...dam, tank, main or pipe or other source of water supply whatsoever...**'

Aside from this power, it is likely that the existing section 96 of the CFA Act would be interpreted to incorporate 'dam' even though only 'well or tank' is listed. The text of the legislation should be interpreted in light of the overall purpose of the section and the Act. The purpose of the section and the Act is to enable the CFA to have access to and use of the water it needs to put out a fire.

Your question about the part of the Second Reading Speech which refers to water being deemed to be fire damage within a person's insurance policy against fire is already in Sect 93 of the CFA - and this has been the case since the 1920's. There is also nothing within this new Bill which changes this in any way.

Your third question was about the Government's policy statement that we would replace essential or critical water supplies within 48 hours during this upcoming fire season and the definition of 'critical' or 'essential'.

I am informed that the policy states that in the event of a fire, regardless of where the fire starts, if water is taken from domestic and stock or irrigation dams, tanks etc. water needed for essential use of replaced. This means that a reasonable and sufficient volume of water will be provided to sustain:

1. The health of affected residences and pets
2. The health and productivity of their stock

So in all areas the status quo remains. If a person's water is used to fight fires they can either claim this water back through the mechanism the Government provides (where the landowner would go through their local council who would then contact the water authority) or through their insurance company, as has always been their right. But most people have tended not to use the insurance policy approach simply because of the impact on their premiums.

I hope this clarifies the situation,

Kind Regards,

Holly