

# Blake Dawson

Queensland Floods Commission of Inquiry  
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Dear Commissioner

## Queensland Urban Utilities

Thank you for your correspondence dated 23 November 2011.

This submission is in response to the Commission's invitation to Queensland Urban Utilities (QUU) to provide further comment on reduction of stormwater flows within sewers through local government and distributor-retailers working cooperatively to investigate possible illegal stormwater connections and more particularly, on:

1. The level of cooperation that occurs at present; and
2. What additional cooperation is needed or what additional work QUU believes needs to be done in addition to what occurs at present.

### Current level of cooperation

3. We are instructed that:
  - (a) The current level of cooperation between QUU and its participating local governments is very good; and
  - (b) Because QUU does not have powers of entry to private properties to inspect private plumbing, participating local governments have to attend sites (private properties) with QUU officers in joint smoke testing programs to investigate possible illegal stormwater connections. This is not an effective use of the resources of QUU and its participating local governments.

### Additional cooperation

4. We are instructed that:
  - (a) As stated in previous submissions, local government is responsible for stormwater management and the regulation of private plumbing;
  - (b) The investigation of possible illegal stormwater connections could be enhanced through a delegation of certain limited investigatory powers of participating local governments to distributor-retailers;
  - (c) However, noting the matters stated at:
    - (i) Subparagraph 3(b) above; and

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- (ii) Paragraphs 114 to 132, and in particular, paragraphs 121 to 124, of Mr Robin Lewis' statement of 4 May 2011,

consideration should be given to clarifying whether participating local governments can, whether directly or through delegation to distributor-retailers, perform their investigatory and enforcement functions in relation to possible illegal stormwater connections under their present statutory powers; and

- (d) In particular, consideration should be given as to whether:
  - (i) The current powers of participating local governments under the *Local Government Act 2009 (Qld)* and *City of Brisbane Act 2010 (Qld)*:
    - (A) Extend to the regulation of illegal stormwater connections to sewer infrastructure (as distinct from the regulation of illegal private sewer connections to stormwater infrastructure); and
    - (B) Are delegable to appropriately qualified officers of distributor-retailers; and
  - (ii) Smoke testing programs to detect possible illegal stormwater connections can be classified as approved inspection programs undertaken to ensure compliance with local government-related laws.
- (e) Further, noting that s128O of the *Plumbing and Drainage Act 2002 (Qld)* prohibits the connection of stormwater installations to onsite sewerage facilities (which include septic tanks), consideration should be given as to whether any consequential amendments are required to this legislation to address the matters stated at subparagraphs 4(c) and 4(d) above.

5. We are instructed that, having regard to the matters stated in paragraph 4, and noting that:

- (a) The proper conduct of smoke testing programs by distributor-retailers without the assistance of participating local governments requires a statutory power to enter private properties to investigate possible illegal stormwater connections;
- (b) In the absence of a statutory power or property owner's consent, the release of smoke by distributor-retailers into sewer infrastructure and subsequently into private plumbing may not be permitted; and
- (c) In the absence of such a power, the efficacy of smoke testing programs carried out by distributor-retailers without the assistance of participating local governments depends on ad hoc (and for that reason, administratively and operationally inefficient) arrangements whereby the express consents of private property owners to enter properties and/or release smoke into private plumbing must first be obtained,

greater legal certainty and operational and administrative efficiencies could be achieved through providing a clear statutory right for participating local governments to delegate appropriate testing and investigatory powers to distributor-retailers so that distributor-retailers can conduct smoke testing operations and other approved inspection programs or investigations on private properties on their own account.

6. We are instructed that alternatively current administrative processes could be strengthened to enable a distributor-retailer to seamlessly refer possible illegal stormwater connections to its participating local governments for investigation and/or enforcement.

We hope this information is of assistance. If you have any queries, please do not hesitate to contact us.

Yours faithfully

