



Queensland

Water and Another Regulation Amendment Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 74

made under the

Sustainable Planning Act 2009

Water Act 2000

General outline

Short title

Water and Another Regulation Amendment Regulation (No. 1) 2011.

Authorising law

Section 232 of the *Sustainable Planning Act 2009*

Sections 20, 195, 206, 213, 230, 299, 302, 691, 814, 1014 and schedule 4 of the *Water Act 2000*

Policy objectives and the reasons for them

Take of water by constructing authorities

The objective is to provide for a constructing authority, such as a state government agency or local government, to take water for the construction or maintenance of state infrastructure in accordance with the 'Protocol - Authorised taking of water without a water entitlement' approved by the chief executive, without a water licence or water permit.

Currently water permits and water licences are granted for large infrastructure projects carried out by state government agencies and local governments. Such projects often stretch over long distances and continue for a lengthy period of time. This has led to the department renewing or reissuing water licences and permits to take water from multiple water sources. The proposed legislative amendment will remove the need to continue renewing or reissuing multiple source licences and permits held by constructing authorities through a designated statutory authorisation to take water for the purpose of construction or maintenance of state infrastructure projects.

The recent floods and cyclones have resulted in the declaration of disaster events. Recovery from these events will include the need to take water for road repairs etc. This amendment will assist state government agencies and local governments in the recovery effort.

Provide an accreditation process for professional water bore drillers with skills gained in a foreign country

The objective is to provide an accreditation process for professional water bore drillers with skills gained in a foreign country. Currently, the water bore drillers licensing provisions recognise experience for professional water bore drillers from non-water bore drilling backgrounds, for example from the mining sector, however skilled drillers from foreign countries are not recognised.

Prescribe guidelines for riverine protection

The objective is to allow a landowner or an owner/operator of water infrastructure (i.e. the holder of an interim resource operations licence, resource operations licence or distribution operations licence), to destroy vegetation, excavate or place fill in a watercourse, lake or spring without a riverine protection permit, if the activity is undertaken in accordance with chief executive approved guidelines.

The chief executive approved guidelines permit reasonable and necessary activities and ensure that activities are undertaken in a way that minimises adverse impacts on the physical integrity of the watercourse, lake or spring.

Dissolve Taberna Bore Water Board

The objective is to formally dissolve the Taberna Bore Water Board (the Board) and appoint the chief executive to perform the Board's functions.

The Board is a category 2 water authority under the *Water Act 2000* (Water Act). The Board was established in 1931 to supply water for stock watering

purposes to land holders in its approved authority area. All members of the Board have resigned; as such it is necessary to formally dissolve the Board by regulation, and appoint the chief executive to perform the functions of the Board.

The formal dissolution of the Board will allow the landholders in the water authority area to formally enter into a private water supply agreement for the supply of water in the area.

Allow seasonal water assignments and prescribe water sharing rules

Seasonal water assignment and water sharing rules have been prepared for the Dalrymple Creek Alluvium groundwater management area. The objective of this regulation is to give effect to these rules.

Seasonal water assignment and water sharing rules provide a sustainable and equitable approach to managing a water resource. Such rules establish a framework for water use accounting, and help to ensure there is an accountable and auditable trail for the movement of water use within and between water licences. This provides greater security to water users in the water management area, by allowing them to purchase water from other licence holders. Water sharing rules also ensure that arrangements for access to water and water use accounting within a water management area are clearly articulated to licence holders, thus providing a more transparent and stable water use accounting regime.

Minor amendments for consistency and correction

To correct several minor errors and inconsistencies identified in the legislation.

Achievement of policy objectives

Take of water by constructing authorities

To give effect to the mechanism provided in the Water Act for a constructing authority to take water for constructing or maintaining state infrastructure without a water licence or permit, a regulation may prescribe the taking of water for that purpose, and any conditions associated with the take of water. This regulation prescribes the taking of water, and associated conditions.

Provide an accreditation process for professional water bore drillers with skills gained in a foreign country

The *Water Regulation 2000* (Water Regulation) provides the qualifications or experience required for a person to obtain different classes of a water bore drillers licence. The amendment regulation will achieve the objective of recognising water bore drilling experience obtained in a foreign country by including experience appropriate to the different classes of water bore drillers licence in these provisions for drillers with skills gained in a foreign country.

Foreign drillers may come from countries that do not operate under licensing frameworks or standards recognised in Queensland or across Australia. These drillers will still be required to undertake the training and examinations to ensure their familiarity and compliance with Australian construction standards and the importance of protecting groundwater resources in Australia.

Prescribe guidelines for riverine protection

The amendment regulation achieves the policy objective by making an amendment to the Water Regulation to provide that destroying vegetation, excavating, or placing fill in a watercourse, lake or spring is permitted if carried out under the following guidelines:

- "Guideline - Activities in a watercourse, lake or spring carried out by a landowner
- "Guideline - Activities in a watercourse or lake undertaken by a holder of an interim resource operations licence, resource operations licence or distribution operations licence

The Water Regulation already permits the destruction of vegetation, excavation or placing of fill in a watercourse, lake or spring without the requirement for a riverine protection permit in several circumstances, which include, where the activities are undertaken under the 'Guideline - Activities in a watercourse, lake or spring carried out by an entity' and 'Guideline - Activities in a watercourse, lake or spring associated with mining operations'. This amendment simply prescribes two new guidelines under which activities are permitted.

The *Sustainable Planning Regulation 2009* (Sustainable Planning Regulation) makes the clearing of native vegetation assessable development for the purpose of the *Sustainable Planning Act 2009*. As such, a development permit is generally required to carry out such an activity. An exception to this rule is provided where the clearing of native vegetation is less than 0.5 hectares and is subject to an approval process

under another Act (such as the process of obtaining a riverine protection permit under the Water Act). For this reason, an amendment is made to the Sustainable Planning Regulation to ensure that where the destruction of vegetation is undertaken in accordance with the new guidelines it is not inadvertently captured as assessable development.

Dissolution of Taberna Bore Water Board

In accordance with the process for the dissolution of a category 2 water authority provided under the Water Act, a new section in the Water Regulation achieves the objective by providing that the Taberna Bore Water Board is dissolved and the chief executive has been appointed to perform the functions of the Board.

Allow seasonal water assignments and prescribe water sharing rules

The amendment regulation achieves the policy objective by prescribing water sharing rules and seasonal water assignment rules for the Dalrymple Creek Alluvium groundwater management area.

Minor amendments for consistency and correction

The amendment regulation corrects several minor errors and inconsistencies identified in the legislation.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of the Water Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with policy objectives of other legislation.

Benefits and costs of implementation

Take of water by constructing authorities

The amendment provides a mechanism for constructing authorities (State or local government) to take water for the purpose of constructing or maintaining State infrastructure (for example public roads, state railways, pipelines etc) across multiple water sources without a water licence or permit. This taking of water must be carried out in accordance with the

document called 'Protocol - Authorised taking of water without a water entitlement' approved by the chief executive. The amendment will have the benefit of reduced regulatory burden on constructing authorities and the department by removing the need for obtaining a water licence or water permit before accessing water necessary for construction or maintenance activities. This will enable more timely access to water by constructing authorities for the repair and construction of community infrastructure, including infrastructure damaged or destroyed by natural disasters.

Provide an accreditation process for professional water bore drillers with skills gained in a foreign country

This amendment will benefit foreign water bore drillers that wish to gain accreditation as water bore drillers in Queensland. This regulation will permit foreign drillers to apply for a licence under a similar process to that currently applying to non-water bore drillers. The amendment may result in more skilled and licensed water bore drillers in Queensland which would provide clients of water bore drillers with more options and fair pricing.

Prescribe guidelines for riverine protection

Landowners and operators of water infrastructure wishing to destroy vegetation, excavate or place fill in a watercourse, lake or spring will benefit from the introduction of the guidelines. Where the activity is undertaken in accordance with the guidelines, landowners and operators of water infrastructure will no longer be required to obtain a riverine protection permit. Reduced numbers of riverine protection permit applications will also benefit Government with fewer resources required to process applications.

Dissolution of Taberna Bore Water Board

The members of the Taberna Bore Water Board have resigned. The formal dissolution of the Board and appointment of the chief executive to perform its functions, will allow the landowners in the water authority area to formally enter a water supply agreement for the supply of water in the area.

Allow seasonal water assignments and prescribe water sharing rules

The key benefit of allowing seasonal water assignments and prescribing water sharing rules is to provide a sustainable and equitable management regime for the Dalrymple Creek Alluvium groundwater resource.

Minor amendments for consistency and correction

Minor amendments will correct errors and eliminate inconsistencies.

Consistency with fundamental legislative principles

Amendments are consistent with the fundamental legislative principles.

Consultation

Queensland Treasury was consulted regarding all of the amendments.

Take of water by constructing authorities

Consultation was undertaken within the Department of Environment and Resource Management and with the Department of Transport and Main Roads and Local Government Association of Queensland.

Provide an accreditation process for professional water bore drillers with skills gained in a foreign country

Consultation with the Drillers Licensing Review Committee, an advisory body that is made up of four members of the Australian Drilling Industry Association's Queensland branch, was undertaken as part of a Government review of the regulatory regime for water bore construction in Queensland and further discussed in meetings held in May 2009. Consultation was also undertaken with the drilling industry in June 2009. The change was supported.

Prescribe guidelines for riverine protection

Internal consultation within the Department of Environment and Resource Management, as well as consultation with Seqwater and SunWater was undertaken during the development of the guidelines. The guidelines were largely endorsed and comments have been incorporated where appropriate.

The Department of Local Government and Planning was consulted in relation to the amendment to the Sustainable Planning Regulation.

Dissolution of Taberna Bore Water Board

Landholders in the Taberna Bore Water Board's authority area support the dissolution of the Board.

Allow seasonal water assignments and prescribe water sharing rules

The water sharing and seasonal water assignment rules were developed in close consultation with water users in the Dalrymple Creek Alluvium area through the Dalrymple Creek Groundwater Advisory Committee. The rules have been compiled with particular consideration given to stakeholder views and concerns.

Minor amendments for consistency and correction

Consultation was not undertaken due to the minor nature of these amendments.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.

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