



Queensland

Water Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 73

made under the

Water Act 2000

General outline

Short title

Water Amendment Regulation (No. 1) 2012.

Authorising law

Sections 360FA, 360FB and 360FC of the *Water Act 2000*.

Section 360FA of the authorising law provides for the annual levy for underground water management functions of the Queensland Water Commission (QWC) to be worked out in a way prescribed under a regulation. This section also provides for the amount of the levy to be paid and the time and way in which the levy is to be paid, to be prescribed under regulation.

Section 360FB of the authorising law provides for the annual levy payable for the 2010-11 financial year, even if that financial year has ended. This section also provides for the 2010-11 estimated costs of the QWC in carrying out its functions under Chapter 3 of the authorising law, to be prescribed under regulation.

Section 360FC of the authorising law provides for the annual levy payable for the 2011-12 financial year, even if that financial year has started. This

section also provides for the 2011-12 estimated costs of the QWC in carrying out its functions under Chapter 3 of the authorising law, to be prescribed under regulation.

Policy objectives and the reasons for them

The objectives of this subordinate legislation are to:

- specify the structure of the levy on petroleum tenure holders which will fund the annual estimated costs of the QWC in carrying out its underground water management functions established under Chapter 3 of the *Water Act 2000*;
- provide for the implementation of the annual levy on petroleum tenure holders; and
- make specific provision for recovery through the levy on petroleum tenure holders of Queensland Government seed funding provided to the QWC in 2010-11 and 2011-12 to undertake its underground water management functions established under Chapter 3 of the *Water Act 2000*.

The Queensland Government approved the QWC's estimated costs associated with its underground water management functions for the 2010-11 and 2011-12 financial years. The Queensland Government provided seed funding for the QWC's estimated costs in 2010-11 and 2011-12, as the subordinate legislation to commence the levy had not been made or implemented. The levy will provide for the recovery of this seed funding.

Achievement of policy objectives

The subordinate legislation will achieve its objective of describing how the annual levy on the petroleum tenure holders will be calculated by:

- specifying the structure of the levy, and
- specifying the types of petroleum tenures to which the levy will apply.

The subordinate legislation will provide for the implementation of the levy on petroleum tenure holders by:

- specifying how the levy is to be raised annually.

The subordinate legislation will achieve its objective of providing for the recovery of 2010-11 and 2011-12 estimated costs of the QWC by:

- specifying the estimated costs of the QWC for 2010-11 and 2011-12;
- requiring the levy for 2010-11 to be recovered over three (3) years, commencing from the 2011-12 financial year, and
- requiring the levy for 2011-12 to be raised before the end of the 2011-12 financial year.

Consistency with policy objectives of authorising law

The provisions of the subordinate legislation are consistent with the policy objectives of the authorising legislation, the *Water Act 2000*, including the introduction of a regulatory framework to improve the management of impacts arising from the extraction of underground water from petroleum activities, including coal seam gas (CSG) activities.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with any policy objectives of any other legislation.

Alternative ways of achieving policy objectives

The *Water Act 2000* specifies that an annual levy is to be implemented on petroleum tenure holders to recover the estimated annual costs of the QWC in carrying out its functions under Chapter 3 of that act. The *Water Act 2000* also specifies that the 2010-11 and 2011-12 costs of the QWC - funded by Queensland Government seed funding - are to be recovered via the levy.

Potential options for the structure of the levy have been subject to consultation with the major petroleum tenure holders and their peak body - the Australian Petroleum Production and Exploration Association (APPEA). These options were provided in the Regulatory Assessment Statement (RAS) and submissions received in respect of the RAS supported the preferred option.

Benefits and costs of implementation

The number of industry entities that will be subject to charges under the levy is likely to remain small and therefore the administration costs will also remain relatively small. The costs of implementing the subordinate legislation will be recovered through the levy and the Queensland Government will therefore not incur an additional cost in the implementation and ongoing operation of the levy. Seed funding provided by the Queensland Government for the establishment of the underground water management functions of the commission, which has included the development of legislation and preparation of the levy framework and supporting business processes, will be recovered via the levy.

Economic costs and benefits

Within a Cumulative Management Area (CMA), the QWC is responsible for preparing an Underground Water Impact Report (UWIR). To develop a UWIR, the QWC undertakes groundwater flow modelling and assessment of impacts within the area covered by the CMA. This work involves the development of geological understanding of the aquifer system and construction of models based on that understanding. It also involves a survey of springs to assess values and an assessment of the vulnerability of springs; along with the development of a regional monitoring program.

If the QWC did not prepare a UWIR, each petroleum tenure holder in a CMA would need to carry out the same scope of work for the area affected by their individual operations. Within the Surat CMA (which was declared on 18 March 2011) there are four major projects planned and their impacts overlap substantially. As a result, each of the four project proponents would need to carry out the same scope of work as the QWC in developing the Surat UWIR, and do so over an area nearly as large. There are clear economic efficiencies for tenure holders in paying for a portion of the QWC's costs through the levy, rather than needing to fully fund costs that would be of the same order as the QWC's costs.

For tenures outside the CMA, the QWC can advise the Regulator (Department of Environment and Heritage Protection) about the adequacy of the UWIRs prepared by the tenure holders. In the absence of the QWC providing that function, it could be expected that tenure holders would be required to pay for detailed peer review of reports. Therefore by undertaking this peer review of all UWIRs prepared for areas outside a CMA and recovering these costs through the levy, the QWC does not materially increase the economic cost to these tenure holders.

Environmental costs and benefits

The QWC undertakes the groundwater flow modelling and assessment functions within a CMA. As an independent authority, with power to obtain the data it needs to carry out its functions from tenure holders, the QWC is in a position to ensure that the most accurate assessment possible is made of environmental impacts.

Without the QWC undertaking these activities, tenure holders within a CMA would need to provide data to each other to enable modelling and assessment in areas of overlapping impacts. Any lack of cooperation between the tenure holders could reduce the accuracy of the assessments carried out. If the assessments are inaccurate then the need for management responses may not be identified and management action may not be taken or may not be taken in a timely way. This could result, for example, in damage to springs.

Through undertaking these activities and recovering these costs through the levy, the QWC provides clear environmental benefits.

Consistency with fundamental legislative principles

The amendments to the subordinate legislation have been drafted with regard to the fundamental legislative principles and are considered to comply with these principles. The Water Act always envisaged that the QWC's functions under Chapter 3 would be funded by a levy upon the tenure holders who benefit from the work undertaken by the QWC. However, in the absence of the regulation specifying how the levy is to be calculated and recovered, the QWC has had to rely upon seed funding from government to cover its costs. The provisions in the regulation enable the seed funding for 2010-11 and 2011-12 to be recovered in accordance with the *Water Act 2000*. The holders of tenures as at 1 July 2011, will be liable for the repayment of the seed funding. 1 July 2011 is an appropriate date because the cumulative management area was not established until 18 March 2011, and using a single effective date for recovery of seed funding will simplify the administration of the system.

Consultation

The major petroleum tenure holders and APPEA were consulted individually and collectively by the QWC during the development of the RAS. This consultation included discussion concerning the preferred

option for the structure of the levy and also indicative costs to be recovered through the levy.

The RAS was released by the former Minister for Environment for public consultation on 15 September 2011. Consultation closed on 14 October 2011. The RAS included detailed information regarding the proposed levy structure. Two submissions were received during the RAS public consultation period. The submissions supported the preferred option in the RAS.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Energy and Water Supply.

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