



Queensland

# Water and Other Legislation Amendment Regulation (No. 1) 2012

## Explanatory Notes for SL 2012 No. 120

made under the  
*Sustainable Planning Act 2009*

---

## General outline

### Short title

*Water and Other Legislation Amendment Regulation (No. 1) 2012.*

### Authorising law

Sections 246 and 763 of the *Sustainable Planning Act 2009*.

Sections 195, 206, 213, 814, 1006 and 1014 of the *Water Act 2000*.

### Policy objectives and the reasons for them

#### Amendment of the Sustainable Planning Regulation 2009

*Assessment manager for water-related development applications*

The objective is to prescribe one assessment manager for water-related development applications involving multiple jurisdictions. It is intended that the integrated development assessment system under the *Sustainable Planning Act 2009* only provide for a single assessment manager to administer and decide an application. As a result of machinery of government changes, and changes to the Administrative Arrangements Order on 24 May 2012, there are currently multiple assessment managers

for a single water-related development application involving multiple jurisdictions. This situation is undesirable as it results in confusion for users of the system and regulatory delays to the timely assessment of applications.

## **Amendment of the Water Regulation 2002**

### *Riverine protection permit exemption*

The objective is to allow the destruction of vegetation, excavation or placement of fill in a watercourse, lake or spring, without a riverine protection permit, when carried out under an environmental authority for a chapter 5A activity (greenhouse gas storage activities, geothermal activities and petroleum activities) issued under the *Environmental Protection Act 1994*.

Currently, the destruction of vegetation, excavation and the placing of fill in a watercourse, lake or spring is permitted under the *Water Regulation 2002* (Water Regulation) if it is carried out under a mining or petroleum authority/lease or licence, or under an environmental authority for a mining activity under the *Environmental Protection Act 1994*.

An amendment to the Water Regulation will ensure a consistent and equitable approach is taken under the Water Regulation by providing an exemption for the destruction of vegetation, excavation and placement of fill in a watercourse, lake or spring for all activities (greenhouse gas storage activities, geothermal activities, petroleum activities and mining activities) that require an environmental authority under the *Environmental Protection Act 1994*.

### *Replacement of prescribed guideline for riverine protection*

The objective is to allow the holder of an environmental authority for a chapter 5A activity or mining activity issued under the *Environmental Protection Act 1994* 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 the chief executive approved guideline.

There is currently a guideline prescribed under the Water Regulation called 'Guideline-Activities in a watercourse, lake or spring associated with mining operations' which allows holders of a mineral development licence or mining lease under the *Mineral Resources Act 1989* to undertake certain activities without a riverine protection permit. The guideline also permits activities to be undertaken that are necessary for, or associated with, mining

operations authorised under the holder's mineral development licence or mining lease. This guideline is being replaced to expand its application to holders of an environmental authority for a chapter 5A activity (greenhouse gas storage activities, geothermal activities or petroleum activities) or mining activity issued under the *Environmental Protection Act 1994*. This will ensure an equitable and consistent approach is taken in the Water Regulation to all of the abovementioned activities that require an environmental authority under the *Environmental Protection Act 1994*.

*Prescription of the Conondale Water Supply Co-op Ltd as an entity*

The objective is to enable the Conondale Water Supply Co-op Ltd (the Co-op) to hold a water licence not attached to land.

*Amendment to reflect the conversion of interim water allocations in the Lower Mary River water supply scheme*

The objective is to remove the Lower Mary River water supply scheme from schedule 3 of the Water Regulation on the basis that the Mary Basin Resource Operations Plan has converted the interim water allocations in the water supply scheme to water allocations such that there are no interim water allocations that can be transferred to other land.

*Downstream limit for the Boyne River*

The objective is to declare the downstream limit for the Boyne River. The declaration of the downstream limit establishes the jurisdictional limits under both the *Water Act 2000* and the *Coastal Protection and Management Act 1995*.

*Minor amendments for consistency and correction*

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

## **Achievement of policy objectives**

### **Amendment of the Sustainable Planning Regulation 2009**

*Assessment manager for water-related development applications*

The amendment regulation achieves the policy objective by amending schedule 6 of the *Sustainable Planning Regulation 2009* to prescribe the assessment manager for water-related development applications involving multiple jurisdictions. In cases where an entity is no longer prescribed as

the assessment manager, it still has jurisdiction as a concurrence agency for development applications relevant to its portfolio.

### **Amendment of the Water Regulation 2002**

#### *Riverine protection permit exemption*

The amendment regulation achieves the policy objective by extending the exemption in the Water Regulation which currently applies to holders of a mining or petroleum authority/lease or licence, or holders of an environmental authority for a mining activity under the *Environmental Protection Act 1994*, to holders of an environmental authority for a chapter 5A activity issued under the *Environmental Protection Act 1994*, namely greenhouse gas storage activities, geothermal activities and petroleum activities.

#### *Replacement of prescribed guideline for riverine protection*

The amendment regulation achieves the policy objective by replacing a prescribed guideline in the Water Regulation to provide that the holder of an environmental authority for a chapter 5A activity or mining activity issued under the *Environmental Protection Act 1994* may destroy vegetation, excavate, or place fill in a watercourse, lake or spring if carried out in accordance with the guideline.

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 by landowners, entities, resource operations licence holders, holders of a distribution operations licence, holders of a mineral development licence or mining lease under the *Mineral Resources Act 1989*, when the activities are undertaken in accordance with the relevant guideline. This amendment simply replaces an existing guideline that applies to holders of a mineral development licence or mining lease under the *Mineral Resources Act 1989* to expand its application to other activities that require an environmental authority under the *Environmental Protection Act 1994*, namely greenhouse gas storage activities, geothermal activities, petroleum activities and mining activities.

#### *Prescription of the Conondale Water Supply Co-op Ltd as an entity*

The amendment regulation achieves the policy objective by prescribing the Conondale Water Supply Co-op Ltd as an entity in the Water Regulation.

*Amendment to reflect the conversion of interim water allocations in the Lower Mary River water supply scheme*

The amendment regulation achieves the policy objective by removing the Lower Mary River water supply scheme from the Water Regulation.

As there are no more interim water allocations prescribed under the Water Regulation that may be transferred to other land, the provisions in the Water Regulation relating to the process for transferring interim water allocations are no longer relevant and have been removed.

*Downstream limit for the Boyne River*

The amendment regulation achieves the policy objective by declaring the downstream limit for the Boyne River in the Water Regulation.

*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 objects of the *Sustainable Planning Act 2009* and the *Water Act 2000*.

## **Inconsistency with policy objectives of other legislation**

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

## **Benefits and costs of implementation**

### **Amendment of the Sustainable Planning Regulation 2009**

*Assessment manager for water-related development applications*

The prescription of one assessment manager for water-related development applications involving multiple jurisdictions will ensure that applications are validly and efficiently assessed by all Government Departments with jurisdiction for the application within the statutory timeframes.

## **Amendment of the Water Regulation 2002**

### *Riverine protection permit exemption*

Holders of an environmental authority for a chapter 5A activity issued under the *Environmental Protection Act 1994* wishing to destroy vegetation, excavate or place fill in a watercourse, lake or spring will benefit from the amendment as they will no longer be required to obtain a riverine protection permit. This will save the applicant time and resources from having to apply for a riverine protection permit, and the time taken by the administering authority to process the application. Reduced numbers of riverine protection permit applications will also benefit Government with fewer resources required to process applications.

Extending the exemption to holders of an environmental authority for a chapter 5A activity issued under the *Environmental Protection Act 1994* will also simplify and reduce duplication of approvals for these holders of an environmental authority. For instance, an application for an environmental authority under the *Environmental Protection Act 1994* must include relevant information about the likely risks to the environment from the activity, or in some cases, an environmental impact statement must be prepared before an environmental authority is issued. This is likely to include the impacts on any water resources in the area of the environmental authority. The administering authority may condition an environmental authority to take action to prevent environmental harm. As such, it is not necessary for the holders of an environmental authority for a chapter 5A activity issued under the *Environmental Protection Act 1994* to apply for a riverine protection permit under the *Water Act 2000* on the basis that any environmental impacts to water resources are likely to be addressed before an environmental authority is issued.

### *Replacement of prescribed guideline for riverine protection*

Holders of an environmental authority for a chapter 5A activity or mining activity issued under the *Environmental Protection Act 1994* wishing to destroy vegetation, excavate or place fill in a watercourse, lake or spring will benefit from the replacement of the prescribed guideline. Where the activity is undertaken in accordance with the guideline, the holders of the relevant environmental authority will no longer be required to obtain a riverine protection permit. This will save the applicant time and resources from having to apply for a riverine protection permit, and the time taken by the administering authority to process the application. Reduced numbers of

riverine protection permit applications will also benefit Government with fewer resources required to process applications.

It is intended that the replacement guideline called ‘Guideline-Activities in a watercourse, lake or spring associated with a resource activity or mining operations’ be used in place of the replaced guideline called ‘Guideline-Activities in a watercourse, lake or spring associated with mining operations’. For example, if an existing environmental authority had a condition attached to the authority that referred to the replaced guideline, that condition would now be taken to refer to the replacement guideline.

#### *Prescription of the Conondale Water Supply Co-op Ltd as an entity*

Prescribing the Co-op as an entity enables the Co-op to apply to reinstate their water licence, and to continue to supply water to a number of private residents and businesses in the town of Conondale.

#### *Amendment to reflect the conversion of interim water allocations in the Lower Mary River water supply scheme*

This amendment simply reflects the fact that there are no interim water allocations left to be transferred to other land.

#### *Downstream limit for the Boyne River*

Declaration of a downstream limit for the Boyne River establishes the limits of jurisdiction under the *Water Act 2000* and under the *Coastal Protection and Management Act 1995*, making it quicker and easier for the client and agencies to identify the agency with jurisdictional responsibility in the lower reaches of the river.

#### *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.

*Assessment manager for water-related development applications*

The amendments to schedule 6 of the *Sustainable Planning Regulation 2009* were prepared in consultation with the Department of Energy and Water Supply, the Department of Environment and Heritage Protection, the Department of Agriculture, Fisheries and Forestry, the Department of National Parks, Recreation, Sport and Racing, and the Department of State Development, Infrastructure and Planning.

*Riverine protection permit exemption*

Consultation was undertaken within the Department of Natural Resources and Mines, and with the Department of Environment and Heritage Protection.

External consultation was undertaken with the Australian Petroleum Production & Exploration Association and the Queensland Resources Council who were supportive of the amendments.

*Replacement of prescribed guideline for riverine protection*

Consultation was undertaken within the Department of Natural Resources and Mines, and with the Department of Environment and Heritage Protection on the replacement guideline.

External consultation was undertaken with the Australian Petroleum Production & Exploration Association and the Queensland Resources Council who were supportive of the replacement of the guideline.

*Prescription of the Conondale Water Supply Co-op Ltd as an entity*

The Co-op requested that it be prescribed as an entity under the Water Regulation.

*Amendment to reflect the conversion of interim water allocations in the Lower Mary River water supply scheme*

Consultation was undertaken with interim water allocation holders during the development of the Mary Basin Resource Operations Plan.

*Downstream limit for the Boyne River*

The downstream limit for the Boyne River was jointly identified and agreed by officers who have delegation under the *Water Act 2000*, the *Environmental Protection Act 1994* and the *Fisheries Act 1994*.



*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 Natural Resources and Mines.

© State of Queensland 2012