

Water Amendment Regulation (No 3) 2013

Explanatory notes for SL2013 No. 251

made under the

Water Act 2000

General Outline

Short title

Water Amendment Regulation (No 3) 2013

Authorising law

Sections 548, 633, 691 and 1014 of the *Water Act 2000* (the Water Act) and sections 31 and 48 of the *Water Regulation 2002* (the Regulation).

Policy objectives and the reasons for them

The objectives of the legislation are to:

1. dissolve twelve category 2 water authorities and their associated authority areas for converting to alternative institutional structures;
2. dissolve the Pioneer Valley Water Board employing office that has never functioned as an employing office since it was established;
3. expand the authority area for the Glamorgan Vale Water Board; and
4. insert certain division headings into Part 4 of the Regulation for ease of reference.

Dissolving twelve category 2 water boards and associated authority areas

In 2008 the then government commissioned the Webbe-Weller review of all Queensland Government boards, committees and statutory authorities, including Category 2 water authorities under the Water Act. In particular, the review examined the benefit of and need to continue each public body.

The review found that the public interest was not served by the continuance of these authorities and recommended their dissolution and transition to alternative institutional structures. This process will reduce the government's governance and oversight role for water

authorities. It will also enable each transitioned authority to operate more independently, efficiently and in a way that best fits the scale of operations for the authority.

The twelve water authorities transitioning to alternative institutional structures are: Benleith Water Board, Boondooma Water Board, Condamine Plains Water Board, Coreen Water Board, Grevillea Water Board, Kelsey Creek Water Board, Kooingal Water Board, Middle Park Bore Water Supply Board, Mulgildie Water Board, Oaky Creek Water Board, Six Mile Creek Water Supply Board and Smithfield Drainage Board.

Dissolving the Pioneer Valley Water Board employing office

Many water authorities established an employing office following an amendment to the Regulation in 2008 providing for their establishment. However, not all water authorities have used these structures to employ staff, rather finding it more beneficial to continue employing staff under their original arrangements. The Pioneer Valley Water Board is one such case. The dissolution of the non-functioning employing office will tidy up a redundant provision in the legislation.

Expanding the Glamorgan Vale Water Board's authority area

The Glamorgan Vale Water Board (the Board) currently supplies water for stock and domestic purposes to landholders in its authority area, plan AP16172. The Board levies rates and charges on these landholders for the supply of this water as provided for under section 572 of the Water Act.

Landholders of 15 properties adjoining the Board's current authority area are also being supplied water by the Board, but under individual contracts. These landholders have now requested that they be supplied water by the Board under its rates system. This has prompted the Board to seek expansion of their authority area to enable them to supply these additional properties. All landholders have consented to being part of an expanded authority area. The expanded authority area is shown on plan AP22179.

The only alternative way in which the landholders could access the Board's water supply would be through continuing their individual contracts with the Board. Maintaining individual supply contracts is administratively cumbersome and expanding the authority area is a more cost effective approach.

Achievement of policy objectives

Dissolving twelve category 2 water authorities and one employing office

Part 4 of the Regulation contains provisions for the establishment and operation of water authorities and the establishment of employing offices for water authorities. Established water authorities and their authority areas are listed in Schedule 6 of the Regulation. Schedule 6A of the Regulation lists the names of any employing offices established by water authorities. Section 48 of the Regulation provides for recording the dissolution of water authorities and their conversion to a nominated alternative institutional structure.

To achieve its objectives, the legislation will amend Part 4 and the Schedules of the Regulation as follows:

- insert new headings for Divisions 1 to 4 into Part 4 of the Regulation;
- insert new section 48AA to dissolve the Pioneer Valley Water Board Employing Office;
- insert new Division 5 heading and new section 48AB to provide for the dissolution of the particular water authorities in new Schedule 6B;
- insert new section 48AC to provide for the approval of the transfer agreement between the Smithfield Drainage Board and the Cairns Regional Council, as set out in Attachment 1;
- insert new section 48AD to provide for the dissolution of the Smithfield Drainage Board after transferring its functions to Cairns Regional Council;
- remove the entries for each of the twelve water authorities that are dissolving from Schedule 6.
- remove the entry for Pioneer Valley Water Board and the associated Pioneer Valley Water Board Employing Office from Schedule 6A.
- a new Schedule 6B will be inserted into the Regulation to identify:
 - each water authority to be dissolved (column 1);
 - each authority area to be dissolved as shown on the plan (column 2);
 - the name, Australian Company Number, Queensland Cooperative Registration Number, or Australian Business Number of the alternative institutional structures the dissolving authorities will be converting to (column 3).

The Water Act provides that water authorities may be dissolved by regulation. The Water Act also provides that the making of a regulation to dissolve water authorities can only occur once specific statutory requirements are met. These requirements include the following:

- public notification of proposed water authority dissolution (unless the chief executive is satisfied that ratepayers have been fully informed of the proposed dissolution, the proposed dissolution is the result of State action in response to the Webbe-Weller review, and public notification is not appropriate having regard to the public interest);
- the nominated alternative institutional structure is established;
- the Minister for Natural Resources and Mines (the Minister) and the Treasurer are satisfied that the State has or will obtain satisfactory indemnity for civil liabilities and appropriate payment from the new entity for the water authority's assets; and
- for water authorities transferring to local government, the water authority and local government must agree in writing to the proposed transfer and how it will be implemented, inform their ratepayers of the proposed transfer and when it will occur and any terms of the agreement, seek the Minister's approval of the proposed transfer and provide a copy of the written agreement for attachment to the regulation.

The Department of Natural Resources and Mines (the department) has been working with the thirteen water authorities that have decided to voluntarily transition to alternative institutional structures and the department has been advised that all of the relevant pre-requirements have been met. It is now necessary to make a regulation to complete the process and provide for the dissolution of these twelve water authorities and the transfer of assets, liabilities and functions to their nominated alternative institutional structures.

Expanding the Glamorgan Vale Water Board's authority area

Part 4 of the Regulation contains provisions for the establishment of water authorities and their authority areas. Schedule 6 of the Regulation records the names of established water authorities (column 1) and their associated authority area (column 2).

The amending regulation will change the reference for the Glamorgan Vale Water Board's authority area in column 2 of schedule 6 of the Regulation from AP16172 to the new plan area AP22179.

The Water Act provides that certain requirements must be met before any amendments are made to a water authority or its authority area:

- the chief executive must publish a notice of the proposed amendment in the gazette and in another way the chief executive considers appropriate having regard for the intended audience;
- the notice must state the proposed amendment, that written submissions on the proposed amendment may be made to the chief executive, the date by which submissions may be made (at least 20 business days after the notice is published), and where the submissions may be made; and
- the chief executive must consider each properly made submission on the proposed amendment before the regulation is amended.

The department has been advised that the statutory preconditions for expansion have been met in that the Board has advised its ratepayers of the proposed expanded authority area and published a notice of the proposed change in the gazette and the Board's local newspaper. No submissions were received. It is now appropriate that a regulation be made to finalise the expanded authority area.

Consistency with policy objectives of authorising legislation

The amendment regulation complies with legislative requirements and statutory prerequisites of the Water Act. It is also consistent with the main objectives of the Water Act, to provide for the sustainable management of water and other resources and the establishment and operation of water authorities.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

Dissolving twelve category 2 water authorities

There will be significant governance and administrative savings to both government and the water authorities themselves. Once these twelve water boards are dissolved, the Queensland Government's governance and oversight role will be reduced, with fewer staff across the department, the Queensland Audit Office and Queensland Treasury and Trade being required to oversight the remaining water boards.

Once the water boards of each authority are dissolved, financial and performance reporting obligations will be reduced, delivering red tape and efficiency benefits to the authorities.

Water supply and drainage services to ratepayers should not be adversely affected; rather each transitioned authority will be able to operate more independently and efficiently in a way that better fits the needs of their ratepayers.

Expanding the Glamorgan Vale Water Board's authority area

Servicing the additional properties as part of an expanded authority area is a cost effective way of providing the same water services to these additional properties. This approach will enable the board to leverage existing infrastructure and delivery resources. The increased rate base from an increase in rateable lots will raise the board's revenue which may enable the board to achieve some economies of scale benefits. The alternative approach of supplying the additional properties under individual contracts would be administratively cumbersome.

Consistency with fundamental legislative principles

The legislative amendments are consistent with fundamental legislative principles.

Consultation

Dissolving twelve category 2 water boards

The Department of Energy and Water Supply, Queensland Treasury and Trade, the Queensland Audit Office and the Department of Premier and Cabinet have all been consulted on these legislative amendments. All departments support the policy to enable water authorities to transition to alternative institutional structures or transfer their functions to local government.

Other amendments

The department has consulted with the directors of the relevant water authorities regarding the other amendments.