

Water Amendment Regulation (No. 2) 2014

Explanatory notes for SL 2014 No. 231

made under the

Water Act 2000

General Outline

Short title

Water Amendment Regulation (No. 2) 2014.

Authorising law

Sections 690, 691, 695A, 696 and 1014(1) of the *Water Act 2000* (the Act)

Policy objectives and the reasons for them

The objectives of the amendment regulation are to dissolve eight category 2 water authorities and their authority areas previously established in accordance with the Act.

Two of the water authorities are to dissolve absolutely, two water authorities (and their authority areas) are to amalgamate, and four water authorities are to convert to closed water activity agreements.

The policy objectives derive from the Webbe -Weller review recommendations adopted by the Queensland Government (“Government”) as part of its public sector reform to cut red tape and allow water authorities to operate more efficiently and autonomously by reducing reporting, regulatory and approval requirements including through the conversion of category 2 water authorities to alternative institutional structures.

The *Water Regulation 2002* (the Water Regulation) was amended in 2012 to implement the Government’s policy to provide greater flexibility to metered entitlement holders and works owners by allowing them to own, purchase, control the installation of, and maintain, their water meters. The minor amendments outlined in this amendment regulation have also been proposed so that the Department of Natural Resources and Mines (the department) can continue to implement the government’s policy to cut red tape and reduce costs for entitlement holders through the metering arrangements for unsupplemented water.

Another objective of the *Water Amendment Regulation (No. 2) 2014* (the amendment regulation) is to ensure consistency with naming conventions between the *Water Resource (Fitzroy Basin) Plan 2011* (the WRP), and the Water Regulation. If the new names are not prescribed in the relevant sections of the Water Regulation, the Water Regulation and the Water Sharing Rules will not be in alignment with the WRP. This would mean the department could not implement the water sharing rules thereby causing an adverse impact to clients.

Achievement of policy objectives

To achieve the policy objectives the amendment regulation will amend the Water Regulation in accordance with the authorising provisions of the Act.

The amendment regulation is made as a result of the Government's implementation of the above referred Webbe-Weller review recommendations regarding regulation of water authorities, authority areas and their activities under the Act.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the policy objects of the authorising law allowing for:

- 1) the dissolution and amalgamation of water authorities and their authority areas, and conversion of former water authorities to alternative institutional structures; and
- 2) metering arrangements.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with the policy objectives of other state and territory legislation to reduce regulatory and reporting requirements of government boards, committees and statutory bodies such as the category 2 water authorities the subject of this regulation.

Alternative ways of achieving policy objectives

No alternative courses of action have been explored for the dissolution and amalgamation of water authorities and their authority areas, and conversion of former water authorities to alternative institutional structures.

The department has in the past two years worked with water authorities in transitioning to new arrangements, amalgamating or dissolving absolutely. Fifteen water authorities were dissolved and transitioned to new arrangements in the 2013-2014 financial year.

The eight authorities are voluntarily dissolving in accordance with the Government's policy objectives. Proceeding by the making of the amendment regulation ensures the process is subject to Parliamentary scrutiny and fundamental legislative principles.

There are no alternative ways of achieving policy objectives for the minor amendments for metering.

No alternative courses of action have been explored to ensure consistency with naming conventions between the WRP, and the Water Regulation as the changes were identified as being machinery in nature.

Benefits and costs of implementation

The benefits of reduced administrative ("red tape") regulatory and reporting burden, greater autonomy of authorities in conducting water activities, and resource savings gained through implementing the dissolution, amalgamation and conversion of the authorities by regulation have been identified by the Government in consultation with the water authorities, the ratepayers and landowners for each authority area to be dissolved.

The Minister for Natural Resources and Mines (the Minister) and the Queensland Treasurer are satisfied that the State has obtained satisfactory indemnity for any civil liabilities incurred by the State and it is appropriate that the State should not require any payment from the new entities for State investment in assets transferred to those entities.

The benefit of ensuring consistency with naming conventions between the WRP, and the Water Regulation, is the department will be able to implement the water sharing rules, eliminating any adverse impact on clients.

There are no further financial cost considerations for the Government that arise from the making of the amendment regulation.

Consistency with fundamental legislative principles

The sections of the Water Regulation providing for the dissolution amalgamation and conversion of the water authorities are consistent with fundamental legislative principles in the *Legislative Standards Act 1992*, including section 4(4)(c) ("Henry VIII clauses").

The amendment regulation recognises and proceeds to have effect in accordance with existing statutory processes and requirements under the Act without imposing a new regulatory burden. There is no new regulation making power provided in the regulation.

Legislative Standards Act 1992, section 4(2)(a) - there is no reduction or abrogation of established statute law rights and liberties of individuals by the regulation and there has been extensive consultation, information and transitioning time for the authorities, land owners and rate payers affected by the regulation.

The water authorities have issued information notices of their decision to dissolve amalgamate and convert and obtained rate payers approval in accordance with the procedures prescribed under the Act.

For those authorities converting to closed water activity agreements, the ratepayers in the areas the subject of the conversion have been informed and voluntarily agreed and entered into the closed water activity agreements.

Both the Minister and the chief executive of the department have exercised their approval and decision making statutory requirements under the Act to allow the dissolution, amalgamation and conversion of the water authorities to proceed under the regulation.

With regard to the changes being made to ensure consistency with naming conventions between the WRP, and the Water Regulation, in accordance with the *Legislative Standards Act 1992*, section 4(2)(a) - there is no reduction or abrogation of established statute law rights and liberties of individuals by the regulation.

The amendment regulation recognises and proceeds to have effect in accordance with existing statutory processes and requirements under the Act without imposing a new regulatory burden. There is no new regulation making power provided in the amendment regulation.

Consultation

Dissolution and/or amalgamation of eight water authorities

The department consulted all of the water authorities regarding the making of the regulation and the Government's implementation of the Webbe-Weller review recommendations. State government agencies including the Queensland Audit Office, the Department of the Premier and Cabinet and Queensland Treasury and Trade have been consulted.

The eight water authorities the subject of the amendment regulation have informed rate payers in the authority areas to be dissolved and who support the making of the amendment regulation to dissolve, convert and amalgamate the water authorities.

Canegrowers Queensland and the Queensland Farmers' Federation were also consulted in regard to the dissolution, conversion or amalgamation of the eight water authorities.

The Office of Best Practice Regulation (OBPR) was consulted regarding Regulatory Impact Statement (RIS) requirements and a Regulatory Principles Checklist (RPC) and Preliminary Impact Assessment was submitted to OBPR on the proposed amendments to the water authorities. OBPR advised the department a RIS was not required taking into account the authorities having informed rate payers, the likely resource efficiency and cost saving benefits as a result of Webbe –Weller review implementation, and there being no adverse impact on water services and activities.

Minor amendments to enable continuing implementation of water meter use charges in line with Government Policy

Consultation with stakeholders was not required for these amendments.

OBPR was consulted regarding the RIS requirements and a RPC was submitted to OBPR on the proposed metering amendments. OBPR advised the department a RIS was not required because the amendment is unlikely to result in significant adverse impacts to the community.

Changing names of particular water management areas

During the submission periods for the draft WRP and Fitzroy Basin Resource Operations Plan, relevant stakeholders were provided with the opportunity to supply input to the selected names. No submissions were received objecting to the name changes.

OBPR was consulted regarding RIS requirements and a RPC was submitted to OBPR on the proposed name changes in the Water Regulation to align with the WRP. OBPR advised the department a RIS was not required as it aligned with the identified exclusion category of being machinery in nature.

Reasons for non-inclusion of information

No information relevant to the amendment regulation has been deliberately withheld or excluded.

Notes on provisions

Water Amendment Regulation (No. 2) 2014

Short Title

Clause 1 provides the regulation may be cited as the *Water Amendment Regulation (No. 2) 2014*.

Act amended

Clause 2 provides that the regulation amends the *Water Regulation 2002*.

Amendment of s 15 (Seasonal water assignments and rules – Act, s 230)

Clause 3 amends s 15 to refer to a management area “or part of the area”.

Amendment of part 4, division 5, heading (Dissolution and related matters)

Clause 4 amends Part 4, division 5, heading, by omitting the word ‘Dissolution’ and inserting the words “Amalgamation, dissolution”.

Insertion of new clause s 48AAA

Clause 5 inserts a new clause s 48AAA into Part 4, division 5 providing for the dissolution of the East Euramo Drainage Board and Orchard Creek Drainage Board and their authority areas under section 690(1) of the Act and the amalgamation of the former authorities to form the new water authority called the Orchard Creek and East Euramo Drainage Board.

New clause s 48AAA also makes provision for the identification of the new authority’s authority area as shown on plan AP22324. The authority area is comprised of 2 divisions called the East Euramo division and the Orchard Creek division.

Insertion of new clause s 48D

Clause 6 inserts a new clause s 48D into Part 4, division 5 providing for the dissolution of Riversdale–Murray Valley Water Management Board and authority area under section 691(1) (a) of the Act.

Amendment s 64 (Water sharing rules)

Clause 7 amends s 64 to allow s 64(1) to refer to a management area “or part of the area”.

Amendment s 70 (Definitions for pt. 7)

Clause 8 amends s 70 (Definitions for pt. 7) by omitting third dot point from Section 70 (1) definition of *relevant management area* and inserting the following replacement -“Lower Callide, Prospect Creek and Upper Callide groundwater sub-areas”.

Amendment of s 80A (Meter use charge – Act, s 1014)

Clause 9 clarifies in subclause 1(a) that a meter use charge applies to a holder of a metered entitlement where there is an approved water meter this is either the property of the State or else was the property of the State before it was transferred to the entitlement holder.

Amendment of s 80B (Metering exit charge – Act, s 1014)

Clause 10 clarifies terminology in the subclause (4) by now referring to a “meter use charge”.

Amendment of schedule 2 (Entities – Act, sections 190, 193, 206 and 213)

Clause 11 inserts the following two new entities into Schedule 2 of the Regulation – the parties to the “Marathon Bore Water Group Agreement” and the parties to the “Palmgrove Bore Water Group Agreement” for the purposes of effecting the vesting of the former boards water licenses in a non-statutory body.

Amendment of schedule 4 (Seasonal water assignments)

Clause 12 amends schedule 4 (Seasonal water assignments) by omitting outdated references to the Callide Valley groundwater management area and Don River, Dee River and Alma Creek groundwater management areas and inserting the following replacement references - “Lower Callide, Prospect Creek and Upper Callide groundwater sub-areas; and Don and Dee groundwater sub-area”.

Amendment to Schedule 6 – Dissolving Water Authorities

Clause 13 provides for the deletion of entries for the following water authorities that are dissolving - Cowley Drainage Board, East Euramo Drainage Board, Marathon Bore Water Supply Board, Mourilyan Drainage Board, Orchard Creek Drainage Board, Palmgrove Water Board, Riversdale–Murray Valley Water Management Board and Stagnant Creek Drainage Board.

Amendment to Schedule 6B (Particular water authorities dissolved for conversion to alternative institutional structures)

Clause 14 provides for the amendment of schedule 6B of the *Water Regulation 2002* by the inclusion of the following particulars of water authorities converting to alternative institutional structures in the form of closed water activity agreements:

- Cowley Drainage Board converting to the institutional structure consisting of all the parties to the closed water activity agreement titled ‘Cowley Drainage Scheme Agreement’
- Marathon Bore Water Supply Board converting to the institutional structure consisting of all the parties to the closed water activity agreement titled ‘Marathon Bore Water Group Agreement’
- Mourilyan Drainage Board converting to the institutional structure consisting of all the parties to the closed water activity agreement titled ‘Mourilyan Drainage Scheme Agreement’
- Palmgrove Water Board converting to the institutional structure consisting of all the parties to the closed water activity agreement titled ‘Palmgrove Bore Water Group Agreement’.

Amendment of schedule 10 (Water sharing rules)

Clause 15 amends schedule 10 (Water sharing rules) by omitting outdated references to the Callide Valley groundwater management area and Don River, Dee River and Alma Creek groundwater management areas and inserting the following replacement references – “Lower Callide, Prospect Creek and Upper Callide groundwater sub-areas; and Don and Dee groundwater sub-area”.

Amendment of schedule 14 (Water charges)

Clause 16 amends schedule 14 (Water charges) by omitting an outdated reference to the Dawson Valley water management area and inserting the following replacement reference – “zone Dawson B to M as identified in the Fitzroy Basin Resource Operations Plan, attachment 5”.

Amendment of schedule 15A (Metered entitlements)

Clause 17 amends schedule 15A (Metered entitlements) by omitting outdated references to the Callide Valley groundwater management area (non-benefitted) and Don River, Dee River and Alma Creek groundwater management areas and inserting the following replacement references – “Lower Callide, Prospect Creek and Upper Callide groundwater sub-areas; and Don and Dee groundwater sub-area”.