

# Water and Other Legislation Amendment Regulation (No. 2) 2015

Explanatory notes for SL 2015 No. 123

made under the

*State Penalties Enforcement Act 1999*

*Sustainable Planning Act 2009*

*Water Act 2000*

## General Outline

### Short title

*Water and Other Legislation Amendment Regulation (No. 2) 2015*

### Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Section 763 of the *Sustainable Planning Act 2009*

Sections 213, 230, 691, 1014, 1046 and schedule 4 of the *Water Act 2000*

### Policy objectives and the reasons for them

The *Water and Other Legislation Amendment Regulation (No. 1) 2014* was approved by the Governor in Council on 18 December 2014 and provides for a number of amendments to the *State Penalties Enforcement Regulation 2014*, the *Sustainable Planning Regulation 2009* and the *Water Regulation 2002*. The *Water and Other Legislation Amendment Regulation (No. 1) 2014* is intended to support many of the amendments to the *Water Act 2000* introduced by the *Water Reform and Other Legislation Amendment Act 2014*.

The *Water and Other Legislation Amendment Regulation (No. 1) 2015*, which was approved by Governor in Council on 17 February 2015, amended the *Water and Other Legislation Amendment Regulation (No. 1) 2014* to postpone commencement of most provisions that were originally intended to commence on 18 February 2015. This coincided with the delay to commencement of amendments to the *Water Act 2000* under the *Water Reform and Other Legislation Amendment Act 2014*.

***Amendments to the Water and Other Legislation Amendment Regulation (No. 1) 2014***

The objective of the *Water and Other Legislation Amendment Regulation (No. 2) 2015* is to provide for the commencement of provisions in the *Water and Other Legislation Amendment Regulation (No. 1) 2014* that are consistent with Government policy and that relate to provisions of the *Water Reform and Other Legislation Amendment Act 2014* to also commence on the same date.

The provisions of the *Water and Other Legislation Amendment Regulation (No. 1) 2014* to commence will give effect to the following policy objectives:

- Simplifying the process for release of unallocated water  
The new process allows for greater flexibility in releasing unallocated water. A new 'fixed price sale' process allows for unallocated water releases to occur at a one off 'fixed price sale' in areas of low demand or where water is remaining following a competitive release process. This can be done without the need for the Department of Natural Resources and Mines to issue a further public notice in a newspaper or a requirement for the proponent to submit a water licence application.
- Establishing offence provisions for self-read of non-urban water meters, including establishing a penalty infringement notice offence  
Meter entitlement holders are now required to read their own meters. The provisions to commence create an offence for not complying with a notice to read a meter and give the chief executive notice of the reading. It will also establish this offence and a penalty infringement notice offence under the *State Penalties Enforcement Regulation 1999*.
- Remove redundant water sharing rules and seasonal water assignment rules  
The Coastal Burnett groundwater management area water sharing rules and seasonal water assignment rules will be omitted from the *Water Regulation 2002*, as the management of this area is now provided for under the *Water Resource (Burnett Basin) Plan 2014*.
- Renaming one of the two Border Rivers groundwater management areas  
The *Water Regulation 2002* and the *Water Resource (Border Rivers) Plan 2003* both use the same name to refer to different groundwater management areas. The groundwater management area managed under the *Water Regulation 2002* will be renamed the Border Rivers Alluvium groundwater management area to avoid confusion.
- Remove redundant declared subartesian areas  
The Cattle Creek, Clarendon, Cressbrook Creek, Eastern Downs, Monto, and Mulgildie sub-artesian areas, currently declared in schedule 11 of the *Water Regulation 2002*, no longer have effect as the groundwater in those areas is now managed under the *Water Resource (Burnett Basin) Plan 2014*, the *Water Resource (Condamine and Balonne) Plan 2004* and the *Water Resource (Moreton) Plan 2007*.
- Removing declared upstream and downstream limits of watercourses  
The *Water Regulation 2002* currently declares the downstream and upstream limits of a watercourse. These limits are listed in schedule 8 of the *Water Regulation 2002*.

The *Water Reform and Other Legislation Amendment Act 2014* amends the *Water Act 2000* to allow the chief executive to prepare a watercourse identification map to show the extent of watercourses, drainage features, and lakes and springs as defined by the *Water Act 2000*. The map will also show longitudinal limits and downstream limits of a watercourse. The introduction of the new watercourse identification map means that the *Water Regulation 2002* no longer needs to declare upstream and downstream limits of a watercourse.

- Rationalising regulatory requirements in the Bluewater subartesian area  
Regulatory requirements in the Bluewater subartesian area will be rationalised, including allowing access to groundwater for landholders with no access to a reticulated water supply. The Bluewater subartesian area will be replaced with the smaller Black River subartesian area, the remainder of the area will be deregulated allowing access to groundwater in the area without a licence.
- Repealing drainage and embankment area provisions  
The regulatory framework for drainage and embankment areas was made redundant in 2013, following the introduction of the state wide framework for the regulation of levees. Amendments to commence, remove provisions which relate to drainage and embankment areas from the *Water Regulation 2002* and *Sustainable Planning Regulation 2009*. This is consistent with provisions of the *Water Reform and Other Legislation Amendment Act 2014* also commencing that remove provisions about drainage and embankment areas from the *Water Act 2000* and *Sustainable Planning Regulation 2009*.

In addition to commencing the provisions mentioned above, it is also the objective of the *Water and Other Legislation Amendment Regulation (No. 2) 2015* to ensure the commencing provisions can operate effectively under the *Water Act 2000* without the commencement of all provisions in the *Water Reform and Other Legislation Amendment Act 2014* and to correct minor errors.

### ***Amendments to the Water Regulation 2002***

The *Water and Other Legislation Amendment Regulation (No. 2) 2015* also amends the *Water Regulation 2002* to achieve the following policy objectives:

- Align water bore drillers licencing requirements with national standards  
The objective is to make changes to the qualifications or experience criteria required for three classes of water bore drillers licences so that they align to the national standards. The proposed changes will recognise the technical experience and qualifications as required in other states or territories and agreed between Queensland and these jurisdictions. These changes meet the requirements to fast track drillers licensing and enable national portability of drillers' licences as agreed between the National Uniform Driller's Licencing Committee and all states and territories.
- Prescription of an entity  
The objective is to prescribe Adani Infrastructure Pty Ltd as an entity that may hold a water licence without it attaching to land.
- To give effect to the dissolution of water authorities and their conversion to alternative institutional structures

The objective is to formally dissolve the Wanda Creek Drainage Board, Weengallon Water Authority and Crowley Vale Water Board. These boards are category 2 water authorities established under the *Water Act 2000* that supply water for irrigation or drainage services to ratepayers in their authority areas. These boards are moving to alternative institutional arrangements.

- Amendments related to the Pioneer Valley Resource Operations Plan  
The objective is to update the *Water Regulation 2002* to reflect and align with amendments made to Pioneer Valley Resource Operations Plan which commenced on 1 July 2015. Currently the *Water Regulation 2002* prescribes:
  - Water sharing rules and seasonal water assignment rules in the Pioneer groundwater management area
  - Water charges for water harvesting Pioneer River water management area
  - A requirement for particular water entitlements to have approved meters installed.

Amendments are required to remove water sharing rules and seasonal water assignment rules in the Pioneer groundwater management area as these have been superseded by the rules included in the amended Resource Operations Plan. The requirement in the *Water Regulation 2002* to have an approved meter in the Pioneer groundwater management area requires amending to correctly reflect the water entitlements to which it applies, for example to apply to water licences converted under the Resource Operations Plan to water allocations. Amendments are also required to ensure that the water charges that apply in the Pioneer River water management area are not inadvertently applied to additional water users given the recent geographic extension to the Pioneer River water management area under the Resource Operations Plan amendment.

- Establish seasonal water assignment rules  
Seasonal water assignment rules have now been prepared for the Burdekin groundwater management area. The objective of this regulation is to allow seasonal water assignments in the area and to give effect to these rules. Allowing seasonal water assignments in the Burdekin groundwater management area will provide water users greater access and flexibility by allowing them to temporarily trade water within zones of the groundwater management area.
- Removing redundant water sharing rules  
The *Water Regulation 2002* currently prescribes water sharing rules for the Central Lockyer groundwater management area, the North Stradbroke Island groundwater management area and the Great Artesian Basin groundwater management area.

In relation to the Central Lockyer groundwater management area and the North Stradbroke groundwater management area, these areas were listed in the original *Water Regulation 2002*, effective 19 April 2002, however no water sharing rules have been implemented for these areas despite the areas being listed. It is now not intended to develop rules for the North Stradbroke Island groundwater management area, at least in the near future, and rules for the Central Lockyer are currently being developed, however it is intended that these would now be given effect through the relevant resource operations plan, rather than the *Water Regulation 2002*.

Water sharing rules for the Great Artesian Basin groundwater management area have now been included in the Great Artesian Basin Resource Operations Plan. As such, the rules listed in the *Water Regulation 2002* no longer have effect.

## Achievement of policy objectives

### ***Amendments to the Water and Other Legislation Amendment Regulation (No. 1) 2014***

The policy objectives relating to the commencement of provisions in the *Water and Other Legislation Amendment Regulation (No. 1) 2014* will be achieved by the amendment of the commencement provision of the *Water and Other Legislation Amendment Regulation (No. 1) 2014*.

In addition to commencing the provisions, it is also the objective of the *Water and Other Legislation Amendment Regulation (No. 2) 2015* to ensure the commencing provisions can operate effectively under the *Water Act 2000* without the commencement of all provisions in the *Water Reform and Other Legislation Amendment Act 2014*. To ensure this and to correct minor errors, the following amendments to the *Water and Other Legislation Amendment Regulation (No. 1) 2014* are made:

- Allow for the simpler unallocated water release process to operate under the current provisions of the *Water Act 2000*, for example to ensure section references and ensure the terminology is correct.
- Restructure section 41 of the *Water and Other Legislation Amendment Regulation (No. 1) 2014*, which prescribes penalty infringement notice offences, to align commencement of penalty infringement notice offences with commencement of relevant sections of the WROLA Act which establish or amend the offence provisions in the *Water Act 2000*.
- Ensure that the commencement of the removal of upstream and downstream limits and drainage and embankment area provisions does not inadvertently commence sections that are not yet ready to commence. This is because the relevant provisions in the WROLA Act are not yet commenced.
- Remove provisions that establish the Black River underground water area, as the *Water Regulation 2002* will now establish the Black River subartesian area. This reflects that the *Water Reform and Other Legislation Amendment Act 2014* provisions that provide for declared subartesian areas to become declared underground water areas is not yet commenced.
- Correct an error to ensure that the appropriate works requirements will apply in underground water areas.

### ***Amendments to the Water Regulation 2002***

#### Align water bore drillers licencing requirements with national standards

The policy objective will be achieved by amending the *Water Regulation 2002* so that it is consistent with the national standards. Currently drillers who wish to work interstate must apply for a separate licence in each state in which they propose to work. On each occasion they must go through a process of re-testing and evaluation to prove their competency. The current licensing system provides significant restrictions to the portability of drillers work.

The National Uniform Driller's Licensing Committee has produced a 'Procedure for issuing a water bore driller's licence to enable National Portability: Fast tracking licence applications'. The provisions in the *Water Regulation 2002* will be amended so that the qualifications and experience required for a drillers licence application aligns with that in the procedure, for example: the number of bores to be drilled under supervision for the relevant class of licence mirrors that of the procedure.

#### Prescription of an entity

The objective will be achieved by listing Adani Infrastructure Pty Ltd as an entity in schedule 2 of the *Water Regulation 2002*. Becoming a prescribed entity under the *Water Regulation 2002* will allow Adani Infrastructure Pty Ltd to hold (subject to an application being approved) a water licence not attached to land in order to facilitate water use over multiple locations, including the ability to supply water to other entities as necessary for their proposed operations.

#### To give effect to the dissolution of water authorities and their conversion to alternative institutional structures

The Wanda Creek Drainage Board, Weengallon Water Authority and Crowley Vale Water Board water authorities have complied with the approval and procedural requirements under the *Water Act 2000* enabling their dissolution and conversion by regulation to alternative institutional structures which include a company, cooperative or incorporated association and a closed water activity agreement. This regulation achieves the policy objective by formalising their dissolution and conversion to alternative institutional structures by including them in schedule 6B of the *Water Regulation 2002*.

The alternative institutional structures to which Weengallon Water Authority and Crowley Vale Water Board are converting, Weengallon Bore Water Group Agreement and Crowley Vale Water Cooperative Limited, are also to be listed as entities that can hold a water licence without being the owners of the land under the authority of sections 206 and 213 of the *Water Act 2000*, to ensure they can continue to hold the water licences currently held by the converting water authorities.

#### Amendments related to the Pioneer Valley Resource Operations Plan

The policy objective will be achieved by removing the seasonal water assignment rules and water sharing rules listed in schedules 4 and 10 of the *Water Regulation 2002* for the Pioneer groundwater management area.

Also, by amending schedule 14 of the *Water Regulation 2002* to ensure that charges for taking water in the Pioneer River water management area will continue to apply only to the applicable entitlement holders, to which the charges currently apply. The amendment specifies the particular zones within the larger area where the charges continue to apply.

Schedule 15A of the *Water Regulation 2002* will also be amended to ensure that the wording of the entitlements required to have approved meters installed correctly reflects the type of entitlement.

#### Establish seasonal water assignment rules

The policy objective will be achieved by prescribing the Burdekin groundwater management area as an area in which seasonal water assignments are allowed, and prescribing seasonal water assignment rules for the area.

#### Removing redundant water sharing rules

The policy objective will be achieved by removing the redundant entries for Central Lockyer groundwater management area, the North Stradbroke Island groundwater management area and the Great Artesian Basin groundwater management area from schedule 10 of the *Water Regulation 2002*.

### Facilitating the commencement of provisions of the *Water and Other Legislation Amendment Regulation (No. 1) 2014*

In addition, amendments are made to the *Water Regulation 2002* to facilitate the earlier commencement of amendments in the *Water and Other Legislation Amendment Regulation (No. 1) 2014* prior to the commencement of section 68 of the *Water Reform and Other Legislation Amendment Act 2014*. These include:

- removal of sections relevant to downstream and upstream limits;
- removal of sections relevant to drainage and embankment areas;
- establishing the Black River subartesian area to replace regulatory requirements in the Blue River subartesian area with the rationalised requirements; and
- amendments to commence on the commencement of section 68 of the *Water Reform and Other Legislation Amendment Act 2014* to update the simplified unallocated water release process to reflect the terminology and correct section references when provisions of the *Water Reform and Other Legislation Amendment Act 2014* commence.

The timing of the commencement will align with the proclamation of certain sections of the *Water Reform and Other Legislation Amendment Act 2014*.

## **Consistency with policy objectives of authorising law**

The amending regulation is consistent with the policy objectives of the authorising law as it simply facilitates the earlier commencement of some provisions of *Water and Other Legislation Amendment Regulation (No. 1) 2014* and amends the *Water Regulation 2002* to progress routine operational matters.

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

The *Water and Other Legislation Amendment Regulation (No. 2) 2015* is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

Facilitating the commencement of amendments existing within the *Water and Other Legislation Amendment Regulation (No. 1) 2014* will provide benefits such as providing certainty to stakeholders and administrative efficiencies for the Department of Natural Resources and Mines, including:

- Amendments to provide a streamlined unallocated water release process will create efficiencies and savings for the Department of Natural Resources and Mines and stakeholders for future unallocated water release processes.
- Amendments to establish offence provisions for self-read of non-urban water meters, including establishing a penalty infringement notice offence will provide benefits to metered entitlement holders as it will enable them to self-monitor their water use and reduces costs for entitlement holders as the Department of Natural Resources and Mines will no longer need to conduct meter readings on their property.
- Amendments to replace the regulatory arrangements in the Bluewater subartesian area will remove unnecessary water licencing requirements for landowners accessing groundwater for stock and domestic purposes.

- Inconsistencies between the provisions of the *Water Regulation 2002* and other legislation will be removed thereby eliminating any potential confusion for stakeholders by:
  - removing redundant water sharing rules and seasonal water assignment rules;
  - renaming one of the two Border Rivers groundwater management areas;
  - removing redundant declared subartesian areas;
  - removing declared upstream and downstream limits of watercourses; and
  - repealing drainage and embankment area provisions.

### ***Amendments to the Water Regulation 2002***

#### Align water bore drillers licencing requirements with national standards

Aligning the Queensland water bore drillers qualifications or experience to the national standards will provide a streamlined assessment procedure for interstate licensees and reduced costs for those applicants seeking a driller's licence who hold a licence granted in another state or territory.

#### Prescription of an entity

Prescribing Adani Infrastructure Pty Ltd as an entity will benefit the entity by allowing flexibility in where water may be taken under any water licence they hold.

#### To give effect to the dissolution of water authorities and their conversion to alternative institutional structures

The dissolution and conversion of the three category 2 water authorities, Crowley Vale Water Board, Wanda Creek Drainage Board and Weengallon Water Authority, will have benefits including:

- Reduction or removal of onerous reporting obligations for the water authorities, particularly these small water authorities where reporting obligations can be labour and cost intensive in order to meet legislative requirements.
- Improvement to the overall efficiency of the water authorities operating as the alternative structures.
- Reduction of governance oversight from the Department of Natural Resources and Mines.

#### Amendments related to the Pioneer Valley Resource Operations Plan

The benefits of the amendments aligning the provisions of the *Water Regulation 2002* with the amended Pioneer Valley Resource Operations Plan include:

- Removal of redundant water sharing and seasonal water assignment rules, which will avoid duplication and potential confusion for water users.
- Ensuring that water charges are not inadvertently applied to water users in the expanded area of the Pioneer River water management area.
- Amendments to the metering schedule provide additional clarity about those entitlements currently metered while excluding entitlements granted through the Pioneer Resource Operations Plan amendment that do not yet have a meter requirement.

#### Establish seasonal water assignment rules

Allowing seasonal water assignments will provide water users in the Burdekin groundwater management area greater flexibility in managing their water licenses by allowing water users to temporarily trade water. This will allow the groundwater resource to be used more efficiently and effectively.

#### Removing redundant water sharing rules



These amendments simply remove redundant provisions.

#### Facilitating the commencement of provisions of the *Water and Other Legislation Amendment Regulation (No. 1) 2014*

These amendments will provide benefits through certainty for water management arrangements in the Bluewater subartesian area and the commencement of the streamlined unallocated water release process. Also, these amendments will ensure that when provisions of *Water Reform and Other Legislation Amendment Act 2014* commence, the provisions will be updated to be consistent with the new framework, for example uses consistent terminology and section references.

No appreciable costs will be associated with implementing the *Water and Other Legislation Amendment Regulation (No. 1) 2015*.

## **Consistency with fundamental legislative principles**

The *Water and Other Legislation Amendment Regulation (No. 2) 2015* is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

### ***Amendments to the Water and Other Legislation Amendment Regulation (No.1) 2014***

Industry and relevant State government agencies were consulted on the proposed amendments during the development of the *Water and Other Legislation Amendment Regulation (No. 1) 2014*.

Amendments to facilitate the commencement will not change the policy objectives of the legislation. Any policy changes to the *Water and Other Legislation Amendment Regulation (No. 1) 2014* or *Water Reform and Other Legislation Amendment Act 2014* would be subject to further consultation.

### ***Amendments to the Water Regulation 2002***

#### Align water bore drillers licencing requirements with national standards

Consultation with the industry has occurred through the Australian Drilling Industry Training Council and Australian Drilling Industry Association whose members are supportive of these changes. Australian Drilling Industry Association has been part of the National Uniform Drillers Licencing Committee. The National Uniform Drillers Licencing Committee has formulated the procedure to fast track recognition of interstate driller's licences.

#### Prescription of an entity

Adani Infrastructure Pty Ltd has made a request to be prescribed as an entity in order to facilitate their water licence application.

#### To give effect to the dissolution of water authorities and their conversion to alternative institutional structures

The proposed dissolutions and conversions to alternative institutional structures (for example Closed Water Activity Agreements or cooperatives) stem from the Webbe-Weller review of Queensland Government boards, committees and statutory

authorities released in 2009. Each category 2 water authority, following consultation with its ratepayers, board members and with the Department of Natural Resources and Mines, has notified the Department of Natural Resources and Mines of its decision to dissolve and convert to an alternative institutional structure to reduce onerous reporting requirements and oversight. Each water authority gave all ratepayers details of the possible consequences for the ratepayers of the proposed conversion. The proposed transitions were each supported by a majority of votes.

#### Amendments related to the Pioneer Valley Resource Operations Plan

These amendments to the *Water Regulation 2002* reflect that management of groundwater entitlements now occurs through the Pioneer Valley Resource Operations Plan 2002 which was amended in June 2015. Consultation with water users and stakeholder groups was undertaken as part of the Resource Operations Plan amendment process.

#### Establish seasonal water assignment rules

Consultation was undertaken with the Burdekin River Irrigator Association, a group that represents all the water users within the Burdekin groundwater management area, as well as the Burdekin Water Futures Group. These stakeholders are supportive of the introduction of seasonal water assignments in the area.

#### Minor amendments

Consultation was not considered necessary for minor amendments.