

# **Water (Licence Fees and Water Authorities) Amendment Regulation 2020**

Explanatory notes for SL 2020 No. 172

made under the

*Water Act 2000*

## **General Outline**

### **Short title**

*Water (Licence Fees and Water Authorities) Amendment Regulation 2020.*

### **Authorising law**

Sections 101, 118, 122, 691, 695, 696, 808, 1014 and Schedules 11 and 12 of the *Water Act 2000* (the Water Act)

### **Policy objectives and the reasons for them**

The objectives of the *Water (Licence Fees and Water Authorities) Amendment Regulation 2020* are to amend the *Water Regulation 2016* (the Water Regulation) for the following water related matters:

1. Exempt Cape York Peninsula Heritage Area (CYPHA) water licences from water licence fees
2. Extend the revalidation date for metered entitlements in the Lower Balonne Water Management Area
3. Dissolve two category 2 water authorities, converting one to a company limited by guarantee, and transferring the other to a closed water activity agreement
4. Exclude water licences that take overland flow (OLF) water in the *Water Resource (Whitsunday) Plan 2010* area from being metered entitlements

## Achievement of policy objectives

### *1. To support economic development for Aboriginal and Torres Straits Islander Peoples within the CYPHA*

The *Water Plan (Cape York) 2019* (Cape York Water Plan) was approved by the Governor in Council on 6 June 2019.

Extensive public consultation supported the development of the Cape York Water Plan that included Aboriginal land tenure holders, Native Title body corporates and Aboriginal and Torres Strait Islander organisations located in Cape York, including the Cape York Land Council Aboriginal Corporation.

The CYPHA unallocated water reserve was established to assist Aboriginal and Torres Strait Islanders to achieve their economic and social aspirations.

Under the Cape York Water Plan, unallocated water held as a CYPHA reserve may only be granted to an eligible person. An eligible person is defined as an entity that holds land under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991* or a native title holder under the *Native Title Act 1993* (Commonwealth).

Imposing fee payments and costs associated with the use of the water may inadvertently create barriers to Aboriginal peoples and Torres Strait Islanders accessing water for economic, social and cultural needs.

The objectives of amendments to the Water Regulation relevant to the Cape York Water Plan are to remove barriers to Aboriginal peoples and Torres Strait Islanders accessing water for economic, social and cultural needs, by ensuring that the exemption from water licence fees for the purpose of a CYPHA can only be granted to eligible persons identified as either land holders or native title holders under the respective Aboriginal, Torres Strait Islander and Native Title legislation.

### *2. Extend revalidation dates for metered entitlements in the Lower Balonne to ensure successful revalidation of water meters in that area*

Revalidation of meters involves the owner of the meter engaging an authorised meter validator to inspect the meter and confirm that it continues to meet the Queensland interim metering standard. Revalidation is required to occur before the revalidation specified in Schedule 11 of the Water Regulation. If revalidation does not occur before the specified revalidation date, the owner of the meter would be committing an offence if they continue to take water through the meter.

The non-urban water metering policy and standard is currently undergoing review following the release of the Independent Audit of Queensland Non-Urban Water Measurement and compliance. Metered entitlements in the Lower Balonne Water Management Area are scheduled for revalidation by 30 November 2021. Revalidation is a process to establish that existing meters comply with the Department of Natural Resources, Mines and Energy's (the department) non-urban water metering standard. This process is supported by targeted engagement with metered entitlement holders.

The commencement of engagement to support the revalidation process has been delayed by events in the first half of this year, including flooding in the Lower Balonne and COVID-19 social distancing requirements.

The policy objective is achieved by extending the date of revalidation from 30 November 2021 until 30 November 2022 to ensure that water meters in that area will be revalidated successfully.

*3. Provide for the dissolution of category 2 water authorities to facilitate their transition to an alternate institutional structure*

Callandoon Water Supply Board is a category 2 water authority under the Water Act that supplies water from the Macintyre Weir to irrigators and users for stock and domestic purposes within its water authority area. The Callandoon Water Supply Board has requested it be dissolved and it be converted to an alternative institutional structure.

The Matthews Road Drainage Board is also a category 2 water authority under the Water Act that provides improved drainage to ensure continued maintenance of the existing drainage works within its authority area. The Matthews Road Drainage Board has requested it be dissolved and its respective assets and liabilities transferred to a closed water activity agreement.

Section 691 of the Water Act allows for a regulation to dissolve a category 2 water authority to allow for its conversion to an alternative institutional structure. The policy objective is achieved by amending schedule 8, part 3 of the Water Regulation to formalise the dissolution and conversion of the Callandoon Water Supply Board and Matthews Road Drainage Board to alternative institutional structures.

*4. Exclude particular overland flow (OLF) water licences from being metered entitlements*

OLF water is water that runs across the land after rainfall, either before it enters a watercourse, after it leaves a watercourse as floodwater, or after it rises to the surface naturally from underground.

Water licences authorising the take of OLF within the *Water Resource (Whitsunday) Plan 2010* sub catchment B area are currently considered metered entitlement under Schedule 11 of the Water Regulation. These water licences were also granted with conditions requiring a measurement device.

This means that these water licences, in addition to being subject to metering conditions specified on the water licence, are also considered as metered entitlements and are subject to the regulatory framework under the Water Regulation.

The current metering conditions under these entitlements satisfy the department's requirements for fit for purpose measurement. The Department of Natural Resources, Mines and Energy (The department's) current non-urban water metering standard does not address overland flow measurement, and therefore does not allow for effective measurement of OLF take under these water licences.

The amendment of Schedule 11 of the Water Regulation to remove OLF water licences as metered entitlement from the *Water Resource (Whitsunday) Plan 2010*, will remove any unnecessary regulatory duplication, while ensure fit-for-purpose measurement requirements are maintained.

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

The *Water (Licence Fees and Water Authorities) Amendment Regulation 2020* is consistent with the Water Act.

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

The *Water (Licence Fees and Water Authorities) Amendment Regulation 2020* is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

There is no alternative considered available to meet policy objectives.

## **Benefits and costs of implementation**

The *Water (Licence Fees and Water Authorities) Amendment Regulation 2020* ensures continued effective operation of the Water Act by prescribing necessary administrative and machinery matters. No costs to government are currently envisaged.

The purpose of the exemption of water licence fees within the CYPHA reserve within the Cape York Water Plan removes economic barriers that will assist Aboriginal and Torres Strait Islanders to achieve their economic and social aspirations. There are no costs that will be borne by government to implement the amendments.

## **Consistency with fundamental legislative principles**

The *Water (Licence Fees and Water Authorities) Amendment Regulation 2020* has been assessed as being consistent with fundamental legislative principles.

## Consultation

The Water Engagement Forum<sup>1</sup>, the department's peak body advisory group on government-related water matters, was informed of the proposed amendments on 29 July 2020. No concerns were raised in relation to those amendments.

The Office of Best Practice Regulation within the Queensland Productivity Commission was consulted regarding whether further regulatory impact assessment is required under the *Queensland Government Guide to Better Regulation* (the guidelines).

The Office of Best Practice Regulation advised that the proposals are unlikely to result in significant adverse impacts and that no further regulatory impact assessment was required under the guidelines.

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<sup>1</sup> The Water Engagement Forum is comprised of representatives from AgForce Queensland; the Association of Mining and Exploration Companies; the Australian Bankers' Association; Australian Petroleum Production and Exploration Association Ltd; the Environmental Defenders Office; Irrigation Australia; the Local Government Association Queensland; NRM Regions Queensland; the Queensland Conservation Council; Queensland Farmers' Federation; Queensland Resources Council; Queensland Seafood Industry Association; State Council of River Trusts Queensland; Seqwater; Sunwater; The Wilderness Society; and WWF Australia.