

# Water (Desired Level of Service Objectives for SEQ Region) Amendment Regulation 2022

Explanatory notes for SL No. 7

made under the

*Water Act 2000*

## General Outline

### Short title

*Water (Desired Level of Service Objectives for SEQ Region) Amendment Regulation 2022*

### Authorising law

Section 1014 of the *Water Act 2000* (Water Act) provides that the Governor in Council may make regulations under the Water Act. Section 344 of the Water Act provides that a regulation may prescribe the desired level of service objectives for water security.

### Policy objectives and the reasons for them

The objectives of the *Water (Desired Level of Service Objectives for SEQ Region) Amendment Regulation 2022* are to provide greater flexibility for water restrictions when required, and to provide a clearer idea of what water restrictions might be imposed during drought.

Under the *Water Act 2000* (the Act), the level of service (LOS) objectives for South East Queensland (SEQ) are required to be reviewed at least every five years. In 2019, the former Department of Natural Resources, Mines and Energy undertook this review (2019 LOS Review), which identified the need for the amendment. The review found difficulties with the modelling and achievement of the duration objective which could drive premature investment in infrastructure. The desired outcome is for the amendment to better reflect the behaviour of storages in SEQ.

The Department of Regional Development, Manufacturing and Water (the department) and Seqwater's understanding of how the SEQ Water Grid operates and its performance has grown and matured since the Millennium Drought. The Regional Stochastic Model was recently updated to incorporate learnings of water storage behaviour from the Millennium Drought and to account for climate change impacts.

One of the key learnings is that SEQ water storages are large, long-duration storages. This means that the storages decrease slowly but also take significant rainfall volumes to fill. In turn, droughts are likely to be longer in duration, particularly with impacts of climate change. The updated Regional Stochastic Model accounts for these factors.

## **Achievement of policy objectives**

Water restrictions are an important element of SEQ's water management activities, as outlined in the *Water Regulation 2016*. The amendment changes the objective from time spent under medium level restrictions, to the total time spent under restrictions. This allows for the objective to better reflect the behaviour of the water storages, and the generally infrequent but longer duration of droughts in the South-East Queensland region.

The amendment also allows for potential increases in the duration of water restrictions due to climate change.

Seqwater, as the Bulk Water Authority in SEQ, is responsible for water security planning and the meeting of the desired LOS objectives. In part, this is achieved through Seqwater's Drought Response Plan which includes the implementation of restrictions; this has been created in consultation with the five SEQ water service providers (namely Unitywater, Urban Utilities, Redland, Gold Coast and Logan City Councils). Seqwater does not have the power to impose water restrictions but relies upon the SEQ water service providers to implement them.

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

The regulation is consistent with the main objectives of the Water Act, ensuring the sustainable and cost-effective management of Queensland's water resources.

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

The regulation is not inconsistent with the policy objectives of any other legislation or any other jurisdiction.

Rather, the regulation is consistent with the policy objectives of other legislation. It provides a regulatory framework for implementing water restrictions as set out in the *Water Supply (Safety and Reliability) Act 2008* and the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

## **Benefits and costs of implementation**

The State Government will not incur any additional costs as a result of the amendment. It is an amendment of an existing LOS objective that Seqwater is responsible for achieving.

The amendment is beneficial because it allows greater flexibility in the application of restrictions, as required, to manage drought. Generally, the benefits of water restrictions to the broader SEQ region, if and when needed, in reducing the likelihood and delaying the need for drought water supplies outweigh the temporary inconvenience from implementing the water restrictions.

The amended Level of Service (LOS) objective articulates greater flexibility to impose water restrictions to be part of a drought response, when SEQ water grid levels drop to critical levels. This amendment incorporates updated hydrological modelling results from Seqwater's Regional Stochastic Model, which is used to model long-term water security in SEQ. The purpose of this model is to present data and predict outcomes that ensure the bulk water supply system can supply enough water for the SEQ community over the long run, in accordance with Seqwater's 30-year Water Security Program.

The amendment is also beneficial because it reduces the risk of prematurely investing in infrastructure. Seqwater's updated modelling shows that implementing the amended LOS objective would reduce the risk of constructing drought response infrastructure that could be idle for much of the time (i.e., generally only used during drought until the population grows and increases the water demand).

This change will take effect upon notification and the modelling used by Seqwater for the next Water Security Program will incorporate this amendment.

## **Consistency with fundamental legislative principles**

The regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*, namely it:

- (a) is within the power that, under an Act or subordinate legislation (the authorising law), allows the subordinate legislation to be made; and
- (b) is consistent with the policy objectives of the authorising law; and
- (c) contains only matter appropriate to subordinate legislation; and
- (d) amends statutory instruments only.

## **Consultation**

Outcomes from the consultation activities pertaining to the 2019 LOS Review were that stakeholders had expressed general support for refining or removing the LOS objective relating to the duration of medium level water restrictions in SEQ.

Prior to amending LOS objectives, it is required under sections 344-346 of the Act:

- to issue a public notice describing the proposed desired level of service objectives for SEQ;
- to also provide a public notice to Seqwater; and
- for the chief executive to consider all submissions made, and if satisfied, revise the LOS.

On 1 June 2021, and in accordance with the requirements of the Act, the department issued a public notice describing the proposed amendment to the desired LOS objectives for SEQ. Seqwater and the SEQ water service providers were also directly engaged.

A public notice of the proposed change to the LOS objectives and invitation to comment was published online from 1 June 2021 to 9 July 2021 (the required 28 business days). This was accompanied by an information paper about the proposed change, providing background on

the LOS objective and water security planning for SEQ. A consultation report outlining the chief executive's considerations was published on the Business Queensland website.

The department lodged a proposal with the former Queensland Productivity Commission's Office of Best Practice Regulation (OBPR), submitting that the LOS objective in the *Water Regulation 2016* be amended.

The department has met the consultation and assessment requirements under the Act.

### **Results of public consultation**

Nine submissions were made in response to the public notice.

Over half of the submissions supported the amendment. With regards to the remaining submissions, the majority raised no objection to the amendment itself but rather raised concerns about causes of water security issues in general (e.g. population growth).

### **Results of consultation with OBPR, Seqwater and the SEQ water service providers**

Seqwater and the SEQ water service providers expressed general support for the amendment.

OBPR issued a letter of advice stating that the proposal will not add to the burden of regulation and is unlikely to result in significant adverse impacts. No further regulatory impact analysis is required under the *Queensland Government Guide to Better Regulation*.

### **Department's assessment**

The department considers that the long-term benefits of greater flexibility to the duration of water restrictions, if and when needed, outweigh the temporary inconvenience that restrictions might impose. Overall, the feedback and most of the submissions received support this.

Based on the feedback received from the public, Seqwater, SEQ water service providers, the department was satisfied the LOS objective in the *Water Regulation 2016* be amended.