



QUEENSLAND FARMERS' FEDERATION

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Submission

10 November 2022

Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: sdric@parliament.qld.gov.au

Dear Sir/ Madam,

Re: Water Legislation Amendment Bill 2022 (October 2022).

The Queensland Farmers' Federation (QFF) is the united voice of intensive and irrigated agriculture in Queensland. It is a federation that represents the interests of 20 peak state and national agriculture industry organisations and engages in a broad range of economic, social, environmental and regional issues of strategic importance to the productivity, sustainability and growth of the agricultural sector. QFF's mission is to secure a strong and sustainable future for Queensland farmers by representing the common interests of our member organisations:

- CANEGROWERS
- Cotton Australia
- Growcom
- Nursery & Garden Industry Queensland (NGIQ)
- EastAUSmilk (formerly QDO)
- Australian Cane Farmers Association (ACFA)
- Turf Queensland
- Queensland United Egg Producers (QUEP)
- Queensland Chicken Meat Council (QCMC)
- Pork Queensland Inc
- Bundaberg Regional Irrigators Group (BRIG)
- Burdekin River Irrigation Area Irrigators Ltd (BRIA)
- Central Downs Irrigators Ltd (CDIL)
- Fairbairn Irrigation Network Ltd
- Mallowa Irrigation Ltd
- Pioneer Valley Water Cooperative Ltd (PV Water)
- Theodore Water Pty Ltd
- Eton Irrigation Scheme Ltd
- Lockyer Water Users Forum (LWUF)
- Queensland Oyster Growers Association (QOGA)

The united voice of intensive and irrigated agriculture



QFF welcomes the opportunity to provide comment on Water Legislation Amendment Bill 2022 (October 2022). We provide this submission without prejudice to any additional submission from our members or individual farmers.

In Summary QFF:

- Supports an affordable, efficient, and cost-effective water metering, management and compliance framework. If irrigators are to invest in new infrastructure for metering, the Government needs to invest in the compliance and management with no future costs to be borne by irrigators.
- Metering policy should be restricted to the take of water from bores, and un-supplemented supplies, and supplemented water sources (with the proviso that the metering policy of Sunwater and SEQ Water align with the Departmental policy, and the metering requirement do not apply within a channel distribution scheme). Offtakes from the river would have to meet the requirement.
- Supports that the enhanced measurement of overland flow should only apply to the Qld Government's currently identified priority water sources.
- Believes that good metering and measurement is essential to ensure equity and compliance; and to foster an effective water market
- Supports the appropriate use of telemetry but recognises that in many situations its application may not be technically feasible and/or economically warranted.
- Support for telemetry is conditional on the irrigation entitlement holder having the same real-time access to the metering data as the Department.
- Supports the option to use a broad range of telemetry technology and communication channels to transmit the data, so entitlement holders have the widest possible choice for effective and cost-effective telemetry.
- Supports the policy that only the Murray-Darling Basin will require telemetry at this stage and that any expansion of the telemetry requirement would be subject to further consultation with water users.
- Where telemetry is not required, support the roll-out of easy-to-use tools that allow the effective and cost-effective reporting of metering readings.
- QFF has concerns regarding AS4747 meters meeting the requirements for both effective and cost-effective metering, and calls on the Qld Government to develop its own assessment process to determine if meters meet the required standard of:
 - + or – 2.5% accuracy on the test bench
 - + or – 5% accuracy when installed
 - Tamper proof
 - Data logger
 - Telemetry capability (if required)Meters that meet the above requirement should be allowed.
- Believes, over and above the previous point, AS4747 metering compliance outside the Murray-Darling Basin is extremely hard to justify and will cause significant costs in some schemes which could make them financially unsustainable.
- Seeks clear guidance on acceptable alternative measurement options, and expectations for reporting, in the event of meter failure during a pumping event.
- Recognises installation and on-going costs of meters is a major concern, and amendments outlined in the Water Legislation Amendment Bill 2022, need to incorporate the economic pressures imposed by the drought, as well as the economic value of telemetry in most circumstances and therefore QFF recommends a review of the amendments within the Act regarding compliance, which includes validation and certification.

- Water meters, used for measuring the take covered by this policy, should be owned and maintained by the water entitlement holder.
- Believes that both the Federal and State Government should be obliged to provide significant financial assistance to water entitlement holders to meet the metering requirements with no subsequent cost recovery exercise.
- Supports the full subsidisation of the telemetry as it is principally a cost of compliance and therefore public benefit.
- Believes that all data collection by Government should be subject to robust and agreed data protection principles including those of lawfulness, purpose limitation, data minimisation, accuracy, storage limitation and confidentiality and not for public access.
- Supports the ‘grandfathering’ of existing water meters to ensure that farmers are not disposing of working assets before the end of their useful life and incurring unnecessary costs one day early.
- Supports the phased implementation that accounts for current drought declarations (or other emergency circumstances that may arise).
- Believes that the Government’s own metering of natural water resources must meet the same benchmarks as those imposed onto industry.
- Continues to support the continued need for local Departmental knowledge and local personnel – the introduction of telemetry must not be at the cost of removing local compliance and policy officers.
- Telemetry is not supported on the take of water from bores, but should be considered optional, and supported by Departmental technology.
- A minimum timeframe of three to five years is proposed, before consultation is undertaken to assess the implementation of the non-urban water metering standards in schemes outside of the Queensland Murray-Darling Basin region. QFF recommends that a consultation regulatory impact statement (CRIS) is undertaken.

Overview

QFF represents the intensive agriculture sector, which makes a major contribution to Queensland's state and regional economies and employment. This sector, including sugarcane, cotton, horticulture, nursery and garden, which uses water to generate world leading, high quality produce servicing local and world markets. Maintaining and growing the quality and reach of this sector is dependent on these industries remaining competitive.

Water is an all-critical input for the agricultural sector. QFF recognises that water metering is a necessity for the fair and equitable use of a high valued resource, and that the efficient management of water use should reduce costs to water users and suppliers, and result in sustainable management of the water resource. However, it is also essential that the agricultural sector be able to reasonably comply with any regulatory requirements associated with the management and measurement of water. In particular, the cost of compliance should not result in agricultural businesses becoming non-viable.

In May 2022, Government approved the Queensland non-urban water measurement policy and the preparation of the Water Legislation Amendment Bill 2022 to bring forward amendments to the Water Act 2000 to establish the regulatory framework to support policy implementation.¹

As outlined in the Statement of Compatibility, Water Legislation Amendment Bill 2022, the Bill also includes several non-measurement related amendments to improve administration of the *Water Act 2000*. These include amendments to align the administration of water authority boards with

¹ STATEMENT OF COMPATIBILITY, Water Legislation Amendment Bill 2022

arrangements for other government boards with similar scale governance responsibilities; and to ensure the chief executive can apply appropriate discretion in deciding particular water licence applications that may impact other water users and the public interest.

Other proposed legislative amendments to the *Water Act 2000*, the *Water Supply (Safety and Reliability) Act 2008*, and the *South East Queensland Water (Distribution and Retail Restructuring Act) 2009* are generally minor, technical or operational in nature. They are intended to clarify existing provisions or requirements, make consequential amendments and otherwise improve the operational efficiency of water legislation and public policy development.

QFF notes the process of public policy development which the government determines the most appropriate approach to dealing with problems or issues that require its attention. When considering a policy proposal, it is essential government decision makers are provided with the necessary information and advice to make informed decisions. This is particularly important for amendments such as this, that introduce or amend government regulation and, in this case, which have significant impacts on business, the community and the Queensland economy.

It is noted that the proposed legislative amendments to the *Water Act 2000*, the *Water Supply (Safety and Reliability) Act 2008*, and the *South East Queensland Water (Distribution and Retail Restructuring Act) 2009*, are generally minor, and intend to clarify existing provisions; however minor amendments can potentially lead to adverse impacts on water users, if amendments are directed to all users in the same manner and not by a scheme by scheme basis.

The consideration of regulatory best practice principles is essential, and should the amendment of regulation be necessary, it must minimise the burden (financial and administrative) on affected stakeholders. As such, QFF expects to see a rigorous Regulatory Impact Analysis (RIS) as the next step, which considers a range of feasible policy options including self-regulatory, co-regulatory and non-regulatory approaches, and an assessment of their benefits and costs on an individual scheme and locational basis.

When proposed regulatory changes are likely to cause significant adverse impacts, then a RIS will evaluate potential impacts including economic, social, cultural and environmental that are likely to impact stakeholders. QFF understands that a Minister can seek an exemption from undertaking a RIS under exceptional circumstances², however given the complexity of the diverse ranges of water needs, water schemes and measurement requirements in Queensland, it would be detrimental and potentially contribute to the decline of agricultural businesses if strict policies were imposed without undertaking a CRIS.

Overland Flow Measurement

Metering of overland flow will now formulate part of the Water Legislation Amendments Bill 2022, though how this will be implemented throughout the remainder of Queensland has yet to be identified in relation to the evaluation for metering requirements. There is considerable concern around how this may be measured, as a number of dams are likely to store captured overland flow, Sunwater allocations and/or spring water.

The configuration of metering to avoid double counting of water moving in and out of the system has the potential to become cost prohibitive. QFF encourages the Queensland government to consult extensively with stakeholders affected by overland flow before moving into further consideration of metering arrangements for schemes outside of the Queensland Murray Darling Basin (QMDB) region. It

² Queensland Treasury, Office of Productivity and Red Tape Reduction.

is also unclear from the Water Amendment Bill and relevant how the government may choose to address dams with no volumetric limit (as defined by *Water Regulation 2016*, s 50).

It is understood that the state government as part of this process will be implementing new metering in areas within the Queensland Murray-Darlin Basin (QMDB) where the resource is under pressure due to its allocation status, with equitable access critical for the security of water entitlements.

QFF support accountability of water in the QMDB, and therefore under the Water Legislation Amendment Bill 2022, Division 2, s217E³ the use of measurement devices in this region is supported by QFF.

QFF supports the need for a trigger-based regulation or administrative framework that underpins the measurement of overland flow outside of the QMDB, and not a one size fits all approach. As previously noted, a minimum timeframe of three to five years is proposed, before consultation is undertaken to assess the implementation of the non-urban water metering standards in schemes outside of the Queensland Murray-Darling Basin region. After this period, consultation needs to be undertaken before any further regulatory or legislative changes or amendments are imposed on the agricultural sector.

Publishing requirements

Further amendments that will adversely impact various food, fibre and foliage growers, are the changes to publication requirements to accommodate a low-cost reduction initiative under the Financial Accountability Act 2009, made in June 2021, which has mandated legal requirements that print advertising or publications are to be amended to online publications as the preferred method, under the:

- a) South East Queensland Water (Distribution and Retail Restructuring) Act 2009
- b. Water Act 2000
- c. Water Supply (Safety and Reliability) Act 2008

These amendments include replacing references to, and specifying the duration of, particular publication methods such as newspaper publication, with non-paper publication methods, such as on a website. The Bill also makes amendment to the Water Act to remove redundant steps for public notification of a water licence application, allowing information about applications to simply be published by the chief executive on a Queensland Government website. The Bill also revises requirements for public inspection of documents to better provide for digital options.⁴

In the Water Legislation Amendment Bill 2022, Division 4, Other matters, s 217I (1) standards for measurement requirements, states that the chief executive may make standards, for the measurement requirements as outlined in the standards made under subsections:

- (a) the design, construction, installation and maintenance of measurement devices.
- (b) the operation of measurement systems included in measurement plans.
- (c) processes for the certification of measurement devices or measurement plans as complying with standards under this section, including, for example, the validation of measurement devices.
- (d) the information about water taken under a relevant authorisation that must be given to the chief executive under the measurement requirements.

³ Water Legislation Amendment Bill 2022; p33-34.

⁴ Water Legislation Amendment Bill 2022

- (e) any other matter about measurement devices or measurement plans necessary for the effective operation of the measurement requirements.⁵

Division 4, s2171 (2) further states that these standards must be published on a Queensland Government website and will take effect from the day stated in the standards, which must not be earlier than the day the standards are published on a government website.

QFF represents the interests of 20 peak state and national agriculture industry organisations with many members due to the nature of their business reside in regional areas throughout Queensland that do not always have the benefit of reliable telecommunications or internet services. As such under Part 2, Divisions 2 and 3 of the *Human Rights Act 2019*⁶, any legislative amendments that potentially impose limits on a human right based on equality and freedom to information, by limiting their ability to information such as legislative changes that form part of their legislative requirements required to maintain economic viability for a business is deemed restrictive.

QFF proposes that publications are not restricted to online access only and that access to published documents be available in government offices in regional areas, to increase compliance and reduce economic impacts on farmers that do not have the ability to access government documents online.

Metering

QFF notes that there are still concerns in the policy development for non-urban metering. There is support in the QMDB for metering, however there are still inconsistencies in the metering standards that are still to be aligned with Sunwater's policy on meter standards. This has caused concern that feedback from stakeholders on the proposed state government metering policy was required before aligning policy with Sunwater, that still leaves uncertainty with stakeholder organisations that will be directly impacted by these policy decisions within the QMDB. There is still a concern from stakeholders that they will be required to meet the cost of compliance through loss of commercial viability, with no confirmation placed on costs.

QFF would like to reiterate the inconsistent metering within Queensland, with some areas requiring meters, whilst neighbouring properties, separated by geographical lines on a map, are exempt from metering. QFF would like to note that when measuring the take of water, it is imperative that when assessing water availability in a water plan, that metering of scheme water is carried out throughout the whole scheme and not just measure the water take from bores. This will not only help with accountability in all water schemes, but also contribute to effective and efficient management of water planning throughout Queensland.

Take of water

A streamlined, transparent metering policy should be restricted to the take of water from bores, and un-supplemented supplies, and supplemented water sources (with the provision that the metering policy of Sunwater and SEQ Water align with the Departmental policy, and the metering requirement do not apply within a channel distribution scheme). Offtakes from the river would have to meet the requirement.

Metering requirements

⁵ Water Legislation Amendment Bill 2022.

⁶ Human Rights Act 2019; 2020.

QFF represents irrigated agriculture in Queensland that have varying irrigation schemes, some many different to other regions within Australia, and subsequently there is not a single policy or single accounting approach that fits all. Metering in Queensland does not align with a nation-based approach, as one size does not fit all approach, and is dependent on the nature of the irrigation scheme.⁷

The current status of water plans in Queensland takes into consideration climate variables, overland flow, groundwater, and adjoining river systems that may be impacted from water uptake, which to date has not been fully integrated in states adjoining the Northern Basin. Not only is this vital for water compliance, but it also enables a more effective and efficient framework for water users, which integrates a holistic approach incorporating the environment and reporting methods, monitoring and reviews that are underpinned by the latest scientific information, which is vital for sustainable water trading in all states.⁸

QFF acknowledges and recognises the difference in water availability in different regions and as such, each regions use, and acquirement of water varies. The future development of metering standards and telemetry outside of the QMDB will therefore require region specific identifiers prior to any implementation of a streamlined metering policy.

QFF understand that new metering requirements do not apply to offtakes for supplemented water, and that the new requirements will apply to all unsupplemented water metering. If a meter is a dual product offtake (supplemented and unsupplemented) the new rules will apply.

Under the Water Legislation Amendment Bill 2022, Clause 39, s217C, introduces a new Part 3A, measurement requirements for taking water, and notes that a regulation may prescribe measurement requirements for particular organisations to take water. QFF supports that only telemetry will be required on all meters that take unsupplemented water in the MDBA, and that there to be no requirement for telemetry for any meters outside of the MDBA.

QFF supports these requirements and that this will only apply to schemes in the QMDB. QFF notes that schemes outside of the Murray-Darling Basin will not be regulated by the proposed metering policy and standards, and any request to do so will not be carried out until further consultation with its stakeholders is undertaken.

As such QFF proposes a minimum timeframe of three to five years before consultation is undertaken, to assess the implementation of the non-urban water metering standards in the Queensland Murray-Darling Basin region.

QFF supports that currently no changes are being made to validation in regions outside of the QMDB. QFF recognises that the revalidation of meters on non-priority schemes are not yet established, however this date will dictate when dual purpose dethridge wheels will have to be removed. QFF requests that this date is discussed in consultation with QFF and its organisation stakeholders, to ensure sufficient time is provided to plan for any infrastructure changes and costs that may be required.

Telemetry

There has been a varied response to telemetry as part of the non-urban water measurement policy and standard. QFF considers that good metering and measurement is essential to ensure equity and compliance; and to foster an effective water market. Utilising the appropriate use of telemetry is

⁷ QFF Submission - National Water Reform 2020– Productivity Commission Draft Report (February 2021).

⁸ QFF Submission: ACCC, Murray-Darling Basin water markets inquiry, Interim report (30 June 2020).

supported, but also acknowledge that in most situations its application may not be technically feasible and/or economically warranted.

Under the measurement policy, telemetry will be required on all unsupplemented surface water meters in the QMDB. The QMDB will be the first region in Queensland which will require devices to be installed by 2025, to meet the Murray-Darling Basin compliance compact commitments. This commitment has not come without complications, due to the inconsistency in telecommunications to enable effective telemetry. Technology is constantly advancing, however for a region to be compliant as part of the amendments, the telecommunications divide that exists across Queensland needs to be addressed.

QFF supports the telemetry being introduced into the QMDB on all meters that take Unsupplemented water as per Water Legislation Amendment Bill 2022 Part 3 Amendment of *Water Act 2000*, Clause 54, s217I, but there are to be no requirements for telemetry on any areas outside of the MDBA. We also recognised that installation and on-going costs of meters is a major concern, and this policy should be very mindful of the economic pressures imposed by drought, as well as the economic value of telemetry in most circumstances.

If the extensive use of telemetry was to be implemented as Government Policy for the whole of Queensland, it would increase the cost of water, with no extra productivity or other benefit for irrigators. There is concern in schemes outside of the QMDB that Sunwater and Seqwater could increase costs, with no real benefit to irrigators, unless the telemetry installed was directly assisting in channel control to fully automate the distribution system, however, could be cost prohibitive, without government support.

There would also be substantial costs to water users if pattern approved meters are required for all new and replacement meters. Some of the larger size meters are not pattern approved due to the small number of sales of these units. If all replacement meters were to be pattern approved this would increase costs without any benefit to the irrigator, provided that the meter is tested and confirmed as accurate it should be sufficient for its purpose.

Metering requirements for supplemented, unsupplemented and dual product meters will be dependent on many variables, including both environmental and overland flow, and as such need to be identified on a scheme-by-scheme basis. QFF supports the metering requirements as a fit for purpose, as one size does not fit all approach, and is dependent on the nature of the irrigation scheme as previously noted. Meters need to be fit for the intended purpose with a risk-based assessment conducted for the individual scheme, which will determine what is necessary in each scheme.

QFF does not support a one size fits all approach in metering and telemetry within Queensland water distribution schemes. Telemetry is of limited variety, for compliance in static systems such as ground water. An example of this, is when an announced allocation is made, if the individual does not exceed their announced allocation in the water year it is irrelevant when they use the water. On a benefit cost basis, this is unjustifiable and uneconomical for businesses.

Furthermore, there has been no avenue identified in the amendments that enable water users a clear framework on how to progress if telemetry is failing. On an unsupplemented pumping site, where pumping is being carried out from a river, irrigators do not have the capacity to cease pumping and wait for a CMI (certifier) to come and fix the telemetry system. As such, QFF recommends that there needs to be provisions to allow continuation of pumping if a meter/telemetry fails.

QFF reiterates that when considering a policy proposal, it is essential that government decision makers are provided with the necessary information and advice to make informed decisions, and in this instance feedback from our stakeholders is limited due to a brief consultation time frame. This is particularly important for amendments such as this, that introduce or amend government regulation and, in this case, which have significant impacts on business, the community and the Queensland economy.⁹

Water is an all-critical input for the agricultural sector. QFF recognises that water metering is a necessity for the fair and equitable use of a high valued resource, and that the efficient management of water use should reduce costs to water users and suppliers and result in sustainable management of the water resource. However, it is also essential that the agricultural sector be able to reasonably comply with any regulatory requirements associated with the management and measurement of water. In particular, the cost of compliance should not result in agricultural businesses becoming non-viable.

Summary

QFF, supports an affordable, efficient, and cost-effective water metering, management and compliance framework. If irrigators are to invest in new infrastructure for metering, the Government needs to invest in the compliance and management with no future costs to be borne by irrigators.

While compliance is only one vehicle of governance and is critical to protect the innocent, it can create an environment of anger and mistrust. Consequently, how the government approaches compliance is critical to the success of the entire system.

Farming within Australia supports many rural communities. However, with the growing concern surrounding the use of our natural assets, the social licence to farm is being damaged. To reverse this, transparency needs to be established, and to achieve this a trustworthy real-time compliance system is critical. Consultation and a streamlined transparent process, outlining regulatory, administrative and potential legislative changes as part of the *Water Act 2000*, are crucial components, for achieving efficient, effective and considered outcomes.

If you have any queries about this submission, please do not hesitate to contact Ms Sharon McIntosh at sharon@qff.org.au.

Yours sincerely

Ms Jo Sheppard
Chief Executive Officer

⁹ Queensland Treasury. The Queensland Government Guide to Better Regulation. May 2019, *in* The Rural Water Management Program - Proposals for Strengthening Non-Urban Water Measurement, Consultation Paper (2019).