

# DEALING IN WATER:

## Regulating An Emerging Water Market

Lindsey Alford

Barrister-at-Law

LL.M., J.D. *Qld.*, B.A. *Syd.*, Prof. Cert. Arbitration *Adel.*

# Regulating the emerging water market

1. Maintaining environmental sustainability
2. Maximising economic return
3. “Unbundling” water rights from land
4. Developing catchment plan
5. Water resource/resource operations plans
6. Register of water allocations
7. Oversight of water trading and pricing

# Historical development

- 19<sup>th</sup> C: Crown grants of water attached to land
- 1994: National Water Initiative proposes tradable permanent entitlements
- 2000: Queensland *Water Act* implements NWI and creates new forms of title to water which are “unbundled” from land title
- 2006: *Water Amendment Act* creates Queensland Water Commission to take over policy and planning in SEQ
- 2007: Commonwealth *Water Bill* creates Murray-Darling Basin Authority to manage resources of the entire Basin

# Transition to new system in Qld

1. Analysis of catchment area, to determine how much water may be sustainably taken;
2. Creation of a water resource plan, involving expert environmental management advice, and stakeholder and public consultation;
3. Creation of a resource operations plan, to implement the water resource plan;
4. Issuing of water allocations, permits etc to water users.

## Property rights in water

- Confers *management* power, ability to receive *income* or benefits, and entitlement to *sell* or alienate the interest
- Register records *location* and the *nominal volume* (in ML) which can be drawn, the *purpose* for which water may be taken, the *priority group* to which the allocation belongs, and the *flow conditions* and *volumetric limit*

# Trading in water

- Three types of trading possible in Qld: *permanent trading* of water allocations and interim water allocations, *leases* of allocations, and *seasonal assignments* of water under an allocation
- Transfers and leases do not need consent
- Subdivision, amalgamation, and reconfiguration of allocations need resource operation manager's consent