

The amended National Water Act and PDALA

WHERE THEY COLLIDE



“Compliance” is no longer a single-law exercise.
By Albert Coetzee



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Two policy currents are converging: the National Water Amendment Bill, 2026 (amending the National Water Act, 1998) and the Preservation and Development of Agricultural Land Act, 2024 (PDALA). Read separately, each instrument has a clear purpose: water reform and resource protection on the one hand, and protection of high-value agricultural land and food security on the other.

The 2026 water amendments focus on enhancing state stewardship, equitable water distribution, and safeguarding crucial hydrological zones. A key update for agriculture is the introduction of Strategic Water Source Areas (SWSAs), where the Minister must publish lists and maps, assign risk categories, and regulate activities nearby. In high-risk SWSAs, the amendments restrict or prohibit water use licences for certain activities, including agriculture and forestry, and enforce a 32-metre setback requirement in vulnerable areas.

The PDALA statute governs all agricultural land in the Republic and mandates that it operates alongside other laws. It establishes land evaluation systems, requires provincial agricultural plans, and empowers the minister to declare protected agricultural areas. This act also introduces an authorisation system for listed activities on agricultural land, preventing development on high-value land. Notably, compliance with PDALA does not exempt applicants from other legal requirements.

Implications and conflicts

From a practical farming perspective, the most immediate implication is that decisions about expansion, diversification, and infrastructure upgrades are likely to become multi-dimensional decisions. A producer planning to establish new orchards, expand irrigated hectares, build a dam, realign roads, install a new pack house, or convert land use in ways that could affect soils, water resources,

or ecosystem services might trigger a water use licence process under the amended National Water Act. And, depending on how the agricultural minister lists activities under PDALA, these may also trigger an agroecosystem authorisation process.

The second implication is that spatial designation will increasingly shape what is possible on a farm. Under the water amendments, farmers with a farm that falls within or adjacent to a declared SWSA, especially a high-risk one, may encounter non-grantable status for certain water use licences where agriculture operates in vulnerable areas without meeting the setback condition. In some instances, it may be outright refusal, depending on the regulations and the specific risk category applied. Under PDALA, the same farm might also be in a national or provincially-protected agricultural area if it is irrigated, high-value, or otherwise strategically important for food production. PDALA

explicitly states “irrigated agricultural land” among the types of areas that may be declared protected agricultural areas, with the purpose of preserving land primarily for food and other agricultural production.

Tensions

Conflicting protection

This is where the first major tension emerges. In a simplified scenario, PDALA may treat irrigated land as worth protecting for continued production and long-term food security. However, the amended water regime may treat parts of the same landscape – especially near water source areas – as

ecologically sensitive, warranting setbacks and limits on licensing for agricultural activities. Therefore, growers could encounter a planning paradox. On the one hand, they may be protected against conversion away from agriculture to maintain productive, irrigated farming under PDALA. On the other, they may face tighter constraints on water authorisations or land operations near SWSAs, under the water amendments.

The laws are logically compatible. However, while both promote sustainability, they can point in different practical directions when applied to specific parcels of land.

Overlap

A second significant friction point is the overlap in institutional processes and timing. The PDALA establishes strict administrative expectations. When a competent authority considers an application for an agroecosystem authorisation, the authority is required to provide a decision within 30 days of receiving the application (or within a reasonable prescribed time for certain specified authorisations), and must also provide written reasons for any refusal. In contrast, water use licensing is typically a complex and information-intensive process that involves an iterative approach. Even with the broader intent to strengthen and expedite decision-making in the Amendment Bill, the water system is structured around detailed considerations of several factors and conditions.

The National Water Amendment Bill 2026 and PDALA can point in different practical directions when applied to specific parcels of land.

The new SWSA regime includes requirements for publication, public comment, final declarations, and subsequent regulations concerning prohibited and restricted activities. The practical issue is one of a workflow conflict. A project could be deemed approved under PDALA within the 30-day decision timeframe, while simultaneously being stalled by the longer timelines in water licensing, or vice versa. This mismatch can adversely affect financing, planting windows, contractor bookings, and seasonal labour planning.

Authorisations

A third tension arises from how each law handles authorisations. PDALA explicitly states that compliance with its process does not exempt applicants from fulfilling any other statutory authorisation requirements and that obtaining authorisations under other laws does not negate the need for PDALA authorisation when required. This creates a deliberate "double key" approach. The water amendments similarly expand the realm of state oversight. For example, they tighten control over the transfer of water use authorisations, prohibit private water trading, and empower the minister to reallocate water across sectors, provinces, or catchments in the public interest.

The potential contradiction for growers is practical rather than legal. A grower may obtain a PDALA authorisation for a land-use change aimed at enhancing productivity or resilience, but then find it difficult to secure or retain the necessary water authorisation, as the water regime may push for reallocation, curtailment, or refusal in sensitive source areas.

What and by whom?

A fourth area where contradictions may arise is in defining what is being protected and by whom. The water amendments introduce terms such as "strategic water source areas" and embed protections for these zones through licensing restrictions and regulations.



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Conversely, PDALA introduces "protected agricultural areas," which are designated to safeguard high-value agricultural land (including irrigated land) from non-agricultural land uses and to promote long-term production and food security.

In practice, these designations might overlap in geography, but rely on different scientific criteria and be administered by different departments. This raises a governance risk, where a producer could face overlapping protected area rules, each with different maps, update cycles, and compliance expectations. PDALA requires that protected agricultural areas be reviewed at least every five years and maintained in registers and maps, including notifications to the registrar of deeds. The water amendment mandates that the water minister identifies and publishes SWSAs and later issues regulations for managing activities within and around them. If the boundaries or classifications are updated at separate times, growers may experience regulatory "moving targets," particularly in peri-catchment zones.

Policy perception of agriculture

A fifth tension concerns the policy treatment of agriculture as both a beneficiary and a source of risk. PDALA's philosophy is that agriculture, especially on high-potential

land, should be preserved, protected, and supported through coordinated planning, norms, and standards aimed at ensuring viable farming units and food security.

While the amended water regime does not oppose agriculture, it explicitly recognises agriculture as a potential pressure on water source areas, imposing licensing constraints and setbacks in vulnerable SWSAs. As a result, growers may encounter contradictory messages during implementation, with agricultural authorities advocating for optimal agricultural use and stable farming systems, whilst water authorities impose stricter conditions or refuse additional water use authorisations where ecological risks are heightened.

None of these tensions represent a legal impossibility. South African administrative law is accustomed to multi-authorisation regimes, but they do create operational risks. The "contradictions" will not manifest as explicit clauses that contradict each other, but rather as conflicting outcomes arising from different competent authorities applying diverse statutory tests to the same development.



The intensive search for EARLY MANDARINS

Probably three in five of my grower enquiries are a request for information on new early mandarins. By Jon Roberts

Jon Roberts

When it comes to new early mandarins, growers' have a keen interest in the picking window weeks from 14–25. During the mandarin boom, this citrus type climbed from the fourth to the second most planted in the last

decade. This upward trend in hectares planted will probably continue for the coming decade.

However, following a peak of more than 3.5 million mandarin hybrid buds sold in 2018, bud sales have declined to nearly half a million in the past season. This downturn is largely attributed to the increased concentration of these mandarin hybrids in the late citrus harvesting window, a segment that may be approaching market saturation.

The industry is actively searching for early-season mandarins that match the quality of late-season varieties while replacing traditional Clementine and Satsuma cultivars. Their plantings are declining due to challenges such as alternate bearing, seed presence, and less consistent performance across certain growing regions and postharvest challenges.

Therefore, the industry quest is on for a 12 month supply of early-season mandarins that can match the quality of their late-season counterparts. They must deliver the same eating quality as late-season mandarins, and command the same premium prices driven by strong consumer preference.

However, the challenge has been finding cultivars that consistently deliver the same quality and display these characteristics of late-season mandarins:

- early maturity without compromising yield
- high-quality external easy-peeling rind and high-quality internal characteristics
- low seed content in open-pollinated conditions
- consistent performance across South African production regions.

Current research and evaluation programmes are exploring newer cultivars. A universally accepted drop-in replacement that can be produced at scale and ticks all the boxes is still pending.

Are early mandarins the only viable option?

Beyond mandarins, other opportunities are subject to set criteria around profit per hectare, and low risk and maintenance cultivars with multiple revenue streams.

Other South African segments like Valencia oranges have significant advantages, if they are suitable for the region in question. These are often downplayed when comparing "market buzz" to "actual economic returns."

Valencias' profitability strengths

New early Valencia cultivars like Kas and Gie 5 early, especially, yield premium "first in the market" prices, which may render them as relevant as early mandarins.

Distinguishing characteristics i.t.o. yield consistency and volume:

- high cumulative yield per hectare
- more stable bearing across seasons
- good adaptation to a range of South African climatic zones.