

Queensland



Subordinate Legislation 1994 No. 23

Water Resources Act 1989

**WATER RESOURCES (SHIRE OF MAREEBA)
REGULATION 1994**

TABLE OF PROVISIONS

Section	Page
1 Short title	2
2 Approval of Corporation supplying water (s 3.20 of the Act)	2
SCHEDULE 1	3
AGREEMENT—23 AUGUST 1993 (RAY ROAD WATER AREA)	
SCHEDULE 2	12
AGREEMENT—23 AUGUST 1993 (PLEASANT CLOSE WATER AREA)	

Short title

1. This regulation may be cited as the *Water Resources (Shire of Mareeba) Regulation 1994*.

Approval of Corporation supplying water (s 3.20 of the Act)

2. The Corporation may supply water to the Council of the Shire of Mareeba in accordance with the agreements set out in Schedules 1 and 2.

SCHEDULE 1**AGREEMENT—23 AUGUST 1993 (RAY ROAD
WATER AREA)**

section 2

THIS AGREEMENT is made the TWENTY-THIRD day of AUGUST, 1993 between the **PRIMARY INDUSTRIES CORPORATION** a Corporation constituted by the Primary Industries Corporation Act 1992 (hereinafter called “the Corporation”) and **THE COUNCIL OF THE SHIRE OF MAREEBA** a Local Authority constituted under the Local Government Act 1936 (“the Council”).

WHEREAS:

- 1 by the provisions of the Water Resources Act 1989 the Corporation with the approval of the Governor in Council by Order in Council may supply water to a Local Authority for any purpose upon terms agreed between the parties as specified in the Order in Council;
- 2 the Corporation owns and operates M9/1 pipeline in the Mareeba Dimbulah Irrigation Area and supplies water to adjacent lands for irrigated agriculture;
- 3 the Council owns and operates the Ray Road Water Area for the purpose of taking up to 40 megalitres of water per year for urban use;
- 4 the Council has requested the Corporation to make water available from M9/1 pipeline for the Shire of Mareeba which the Corporation has agreed to do subject to the conditions appearing in this agreement.

SCHEDULE 1 (continued)

The parties now agree as follows:-

1 DURATION OF THE AGREEMENT

Subject to the following provisions, this Agreement continues and remains in full force and effect until the thirtieth day of June, 2003.

2 SECURITY OF SUPPLY

Subject to Clause 7, the Corporation will at all times during the continuance in force of the Agreement do all such things as may be necessary to ensure to the Council a continuous supply of water of the quantities referred to in Clause 5.3 by maintaining water levels in the M9/1 pipeline in the Mareeba Dimbulah Irrigation Area.

3 COUNCIL WORKS

The cost of taking water pursuant to this Agreement must be met by the Council which will maintain and operate the necessary works for that purpose subject to the satisfaction of the Corporation.

4 WATER QUALITY

The Corporation is not responsible for the quality of water available to the Council.

5 ALLOCATION OF SUPPLY

5.1 A year is deemed to commence on the first day of July and end on the thirtieth day of June in the calendar year next following.

SCHEDULE 1 (continued)

- 5.2 Prior to the start of each year the Council will advise the Corporation of its water requirement for that year, together with estimates of its water requirement for the next five years following.
- 5.3 The Council may take such water from its licensed works as it may from time to time reasonably require for supply to and use in the Shire of Mareeba **PROVIDED THAT** the maximum quantity of water that the Council may take in any year shall not exceed 40 megalitres, this being the nominal allocation.
- 5.4 The Corporation, at the beginning of a period determined by it in each year or from time to time during that period, may, in respect of a nominal allocation to which the Council is entitled by this agreement, determine an announced allocation and may alter, amend or vary an announced allocation so determined.
- 5.5 The Council will not take water in excess of its announced allocation without the prior approval of the Corporation.

6 COMMENCEMENT OF SUPPLY FROM M9/1 PIPELINE

The nominated date of commencement of supply from M9/1 Pipeline is the first day of July 1993.

7 SUPPLY OF WATER

The supply of water in accordance with the terms of the agreement is subject to Section 3.20 of the Water Resources Act 1989.

SCHEDULE 1 (continued)

8 ANNUAL WATER CHARGES

8.1 From the first day of July 1993, and for the duration of this agreement the Council agrees to pay to the District Office of the Corporation in Mareeba amounts comprising:-

- a) Minimum Annual Charge consisting of:
 - i) A capital charge calculated at a fixed rate of \$54.00 per megalitre of nominal allocation used (subject to the minimum volume set out in Clause 8.4).
 - ii) An Allocation Charge calculated at the rate per megalitre (set each year for allocation, for irrigators from gravity fed channels in the Mareeba Dimbulah Irrigation Area) of nominal allocation used (subject to the minimum volume set out in Clause 8.4).

which is to be paid on or before the last day of December in each year.

- b) Consumption Charge consisting of:

A charge calculated at the rate per megalitre (set each year for consumption, for irrigators from gravity fed channels in the Mareeba Dimbulah Irrigation Area) by the megalitres of water actually consumed.

8.2 Water taken by the Council in any year in excess of its allocation in accordance with the Clause 5.4 shall be charged for at a rate per megalitre to be determined by the Corporation at the time.

SCHEDULE 1 (continued)

- 8.3 Interest is payable on overdue payments at the rate determined in accordance with section 10.13 (2) (e) of the Water Resources Act 1989.
- 8.4 The minimum volume for which the capital charge and allocation charge payment is to be made each year is 40 megalitres.

9 MEASUREMENT AND REPORTING OF WATER USE

- 9.1 The Corporation will install and maintain in accurate working condition and at the Corporation's expense, measuring devices to record the quantity of water taken from M9/1 Pipeline.
- 9.2 The Corporation will read the measuring devices in accordance with its normal reading programme and advise Council accordingly.
- 9.3 As and when required by the Corporation, the Corporation will test the accuracy of the measuring devices and the Council will be advised of any replacement of the measuring device or adjustment of water use as a result of such test.

10 NON-ACTIONABLE DEFAULT

Neither party is liable to the other for failure to comply with its obligations under this Agreement if such failure is due to:-

- a) war, whether declared or undeclared, revolution or act of public enemies;
- b) riot or civil commotion;

SCHEDULE 1 (continued)

- c) strike or lock-out or labour dispute;
- d) Act of God;
- e) drought, flood, storm, tempest or washaway;
- f) act of restraint of Government;
- g) happenings beyond the control of either party against which it could not reasonably have been expected to take effective precautions.

PROVIDED THAT upon cessation of the said happenings which cause the failure, the party affected shall take all reasonable steps to resume with the least possible delay the performance of its obligations hereunder.

11 COMMUNICATIONS

11.1 All notices, certificates, accounts, statements and communications hereunder (“communications”) must be in writing.

11.2 All communications required or permitted to be given under this Agreement shall be sent by pre-paid ordinary post, by hand delivery or by facsimile transmission to:-

- a)
 - i) in the case of communications to the Council to:-

SCHEDULE 1 (continued)

The Shire Clerk
Mareeba Shire Council
PO Box 154
MAREEBA Q 4880

Facsimile: (070) 923 323

- ii) in the case of communications to the Commission to:-

District Manager
Department of Primary Industries
PO Box 156
MAREEBA Q 4880

Facsimile: (070) 923 939

or such other addresses as may be nominated in writing from time to time by the parties hereto.

- b) All communications will be deemed to have been duly given:-
- i) If posted, seven days after being deposited in the mail with postage pre-paid.
 - ii) If delivered, when delivered.
 - iii) If sent by facsimile transmission, only when the receiver has confirmed its receipt.

 SCHEDULE 1 (continued)
12 ENTIRE AGREEMENT

This Agreement is made subject to the provisions of the Water Resources Act 1989, and shall constitute the entire Agreement between the parties and any alterations and amendments thereof shall be made in writing by the Council under seal and by the Corporation in writing signed by a person authorised under the Primary Industries Corporation Act 1992.

13 APPROVAL BY GOVERNOR IN COUNCIL

This Agreement shall take effect (and shall not otherwise take effect) upon the Governor in Council approving that the Corporation supply water in accordance with the terms and conditions of this Agreement.

IN WITNESS the parties have executed this agreement the day and year first appearing.

Signed By P.J. Bevin

~~CHARTER BOUND~~

of WATER RESOURCES

for and on behalf of the PRIMARY
INDUSTRIES CORPORATION

in the presence of J. MacPherson

JULIE-ANNE MACPHERSON

Signed for and on behalf
of

SCHEDULE 1 (continued)

**THE COUNCIL OF THE SHIRE OF
MAREEBA**

the Chairman _____ C.J. Lewis Cr. C.J. Lewis

and

the Shire Clerk _____ C.C. McDowall Mr. C.C. McDowall

in the presence of _____ D.A. Weight J.P.

Mr. D.A. Weight
(Justice of the Peace)

on 2nd August, 1993.

SCHEDULE 2

AGREEMENT—23 AUGUST 1993 (PLEASANT CLOSE WATER AREA)

section 2

THIS AGREEMENT is made the TWENTY-THIRD day of AUGUST, 1993 between the **PRIMARY INDUSTRIES CORPORATION** a Corporation constituted by the Primary Industries Corporation Act 1992 (hereinafter called “the Corporation”) and **THE COUNCIL OF THE SHIRE OF MAREEBA** a Local Authority constituted under the Local Government Act 1936 (“the Council”).

WHEREAS:

- 1 by the provisions of the Water Resources Act 1989 the Corporation with the approval of the Governor in Council by Order in Council may supply water to a Local Authority for any purpose upon terms agreed between the parties as specified in the Order in Council;
- 2 the Corporation owns and operates M9/1 pipeline in the Mareeba Dimbulah Irrigation Area and supplies water to adjacent lands for irrigated agriculture;
- 3 the Council owns and operates the Pleasant Close Water Area for the purpose of taking up to 20 megalitres of water per year for urban use;
- 4 ~~the Council pipeline for the Shire of Mareeba which the Corporation~~ the Council pipeline for the Shire of Mareeba which the Corporation has agreed to do subject to the conditions appearing in this agreement.

The parties now agree as follows:-

SCHEDULE 2 (continued)**1 DURATION OF THE AGREEMENT**

Subject to the following provisions, this Agreement continues and remains in full force and effect until the thirtieth day of June, 2003.

2 SECURITY OF SUPPLY

Subject to Clause 7, the Corporation will at all times during the continuance in force of the Agreement do all such things as may be necessary to ensure to the Council a continuous supply of water of the quantities referred to in Clause 5.3 by maintaining water levels in the M9/1 pipeline in the Mareeba Dimbulah Irrigation Area.

3 COUNCIL WORKS

The cost of taking water pursuant to this Agreement must be met by the Council which will maintain and operate the necessary works for that purpose subject to the satisfaction of the Corporation.

4 WATER QUALITY

The Corporation is not responsible for the quality of water available to the Council.

5 ALLOCATION OF SUPPLY

5.1 A year is deemed to commence on the first day of July and end on the thirtieth day of June in the calendar year next following.

5.2 Prior to the start of each year the Council will advise the

SCHEDULE 2 (continued)

Corporation of its water requirement for that year, together with estimates of its water requirement for the next five years following.

- 5.3 The Council may take such water from its licensed works as it may from time to time reasonably require for supply to and use in the Shire of Mareeba **PROVIDED THAT** the maximum quantity of water that the Council may take in any year shall not exceed 20 megalitres, this being the nominal allocation.
- 5.4 The Corporation, at the beginning of a period determined by it in each year or from time to time during that period, may, in respect of a nominal allocation to which the Council is entitled by this agreement, determine an announced allocation and may alter, amend or vary an announced allocation so determined.
- 5.5 The Council will not take water in excess of its announced allocation without the prior approval of the Corporation.

6 COMMENCEMENT OF SUPPLY FROM M9/1 PIPELINE

The nominated date of commencement of supply from M9/1 Pipeline is the first day of July 1993.

7 SUPPLY OF WATER

The supply of water in accordance with the terms of the agreement is subject to Section 3.20 of the Water Resources Act 1989.

SCHEDULE 2 (continued)

8 ANNUAL WATER CHARGES

8.1 From the first day of July 1993, and for the duration of this agreement the Council agrees to pay to the District Office of the Corporation in Mareeba amounts comprising:-

- a) Minimum Annual Charge consisting of:
 - i) A capital charge calculated at a fixed rate of \$54.00 per megalitre of nominal allocation used (subject to the minimum volume set out in Clause 8.4).
 - ii) An Allocation Charge calculated at the rate per megalitre (set each year for allocation, for irrigators from gravity fed channels in the Mareeba Dimbulah Irrigation Area) of nominal allocation used (subject to the minimum volume set out in Clause 8.4).

which is to be paid on or before the last day of December in each year.

- b) Consumption Charge consisting of:

A charge calculated at the rate per megalitre (set each year for consumption, for irrigators from gravity fed channels in the Mareeba Dimbulah Irrigation Area) by the megalitres of water actually consumed.

8.2 Water taken by the Council in any year in excess of its allocation in accordance with Clause 5.4 shall be charged for at a rate per megalitre to be determined by the Corporation at the time. The Council must pay

SCHEDULE 2 (continued)

for such water within thirty (30) days of receipt of an appropriate invoice.

- 8.3 Interest is payable on overdue payments at the rate determined in accordance with section 10.13 (2) (e) of the Water Resources Act 1989.
- 8.4 The minimum volume for which the capital charge and allocation charge payment is to be made each year is 20 megalitres.

9 MEASUREMENT AND REPORTING OF WATER USE

- 9.1 The Corporation will install and maintain in accurate working condition and at the Corporation's expense, measuring devices to record the quantity of water taken from M9/1 Pipeline.
- 9.2 The Corporation will read the measuring devices in accordance with its normal reading programme and advise Council accordingly.
- 9.3 As and when required by the Corporation, the Corporation will test the accuracy of the measuring devices and the Council will be advised of any replacement of the measuring device or adjustment of water use as a result of such test.

10 NON-ACTIONABLE DEFAULT

Neither party is liable to the other for failure to comply with its obligations under this Agreement if such failure is due to:-

- a) war, whether declared or undeclared, revolution or act of public enemies;

SCHEDULE 2 (continued)

- b) riot or civil commotion;
- c) strike or lock-out or labour dispute;
- d) Act of God;
- e) drought, flood, storm, tempest or washaway;
- f) act of restraint of Government;
- g) happenings beyond the control of either party against which it could not reasonably have been expected to take effective precautions.

PROVIDED THAT upon cessation of the said happenings which cause the failure, the party affected shall take all reasonable steps to resume with the least possible delay the performance of its obligations hereunder.

11 COMMUNICATIONS

11.1 All notices, certificates, accounts, statements and communications hereunder (“communications”) must be in writing.

11.2 All communications required or permitted to be given under this Agreement shall be sent by pre-paid ordinary post, by hand delivery or by facsimile transmission to:-

- a)
 - i) in the case of communications to the Council to:-

SCHEDULE 2 (continued)

The Shire Clerk
Mareeba Shire Council
PO Box 154
MAREEBA Q 4880

Facsimile: (070) 923 323

- ii) in the case of communications to the Commission to:-

District Manager
Department of Primary Industries
PO Box 156
MAREEBA Q 4880

Facsimile (070) 923 939

or such other addresses as may be nominated in writing from time to time by the parties hereto.

- b) All communications will be deemed to have been duly given:-
- i) If posted, seven days after being deposited in the mail with postage pre-paid.
 - ii) If delivered, when delivered.

SCHEDULE 2 (continued)

- iii) If sent by facsimile transmission, only when the receiver has confirmed its receipt.

12 ENTIRE AGREEMENT

This Agreement is made subject to the provisions of the Water Resources Act 1989, and shall constitute the entire Agreement between the parties and any alterations and amendments thereof shall be made in writing by the Council under seal and by the Corporation in writing signed by a person authorised under the Primary Industries Corporation Act 1992.

13 APPROVAL BY GOVERNOR IN COUNCIL

This Agreement shall take effect (and shall not otherwise take effect) upon the Governor in Council approving that the Corporation supply water in accordance with the terms and conditions of this Agreement.

IN WITNESS the parties have executed this agreement the day and year first appearing.

Signed By _____ P.J. Bevin

PETER JOHN
CHARLES BEVIN

of _____ WATER RESOURCES

for and on behalf of the PRIMARY
INDUSTRIES CORPORATION

SCHEDULE 2 (continued)

in the presence J. MacPhersonJULIE-ANNE
MACPHERSONSigned for and on behalf
of**THE COUNCIL OF
THE SHIRE OF****MAREEBA**the Chairman C.J. Lewis

Cr. C.J. Lewis

and

the Shire Clerk C.C. McDowall

Mr. C.C. McDowall

in the presence of D.A. Weight J.P.Mr. D.A. Weight
(Justice of the Peace)

on 2nd August, 1993.

ENDNOTES

1. Made by the Governor in Council on 3 February 1994.
2. Notified in the Gazette on 4 February 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Primary Industries.

SCHEDULE 2 (continued)

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