



Queensland

Water Resource (Fitzroy Basin) Amendment Plan (No. 1) 2015

Subordinate Legislation 2015 No. 121

made under the

Water Act 2000

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[s 1]

1 Short title

This water resource plan may be cited as the *Water Resource (Fitzroy Basin) Amendment Plan (No. 1) 2015*.

2 Plan amended

This water resource plan amends the *Water Resource (Fitzroy Basin) Plan 2011*.

3 Insertion of new s 7A

After section 7—

insert—

7A Water management area

The part of the plan area identified in schedule 3A as the Don and Dee Rivers and Alma Creek Water Management Area is a water management area with that name.

4 Amendment of s 8 (Information about areas)

Section 8, ‘areas and groundwater sub-areas’—

omit, insert—

areas, groundwater sub-areas and the Don and Dee Rivers and Alma Creek Water Management Area

5 Amendment of s 33 (Particular applications made before commencement of plan)

Section 33(3)(b)(iii), (c)(iii) and (d)(iii)—

omit, insert—

(iii) for a coordinated project; or

6 Amendment of s 41 (Period for which water is granted for particular State purpose)

Section 41(1)(a)—

omit, insert—

- (a) a coordinated project;

7 Amendment of s 47 (Reserve volumes)

Section 47(1), from ‘subcatchment area’—

omit, insert—

subcatchment area, or a part of a subcatchment area, mentioned in schedule 8, part 3, column 1 is stated in schedule 8, part 3, column 2 opposite the area or part.

8 Replacement of ch 5, pt 1, div 4 (Callide Valley Water Supply Scheme)

Chapter 5, part 1, division 4—

omit, insert—

Division 4 Callide Valley Water Supply Scheme

49 Converted water allocations to be managed under resource operations licence

Water allocations converted from interim water allocations to take supplemented water from the Callide Valley Water Supply Scheme are managed under a resource operations licence.

Note—

For the conversion of the water allocations, see section 121 of the Act.

50 Amendment of nominal volume for particular converted allocations

- (1) This section applies if—
- (a) before the commencement, an interim water allocation to take supplemented water from the Callide Valley Water Supply Scheme (the *original allocation*) was converted to a water allocation to take supplemented water from the Callide Valley Water Supply Scheme (the *converted allocation*); and
 - (b) immediately before the commencement, the converted allocation belonged to the high B priority group or the medium priority group under this regulation; and
 - (c) on or before 14 February 2014—
 - (i) the holder of the original allocation had not received a letter explaining the implications of the section 100 notice; or

Note—

See also section 100(6) of the Act.

- (ii) both of the following applied—
 - (A) the holder of the original allocation had, or had to the best of the holder's knowledge, properly made a submission about the previous draft resource operations plan asking for a particular nominal volume for the converted allocation;

Note—

See also sections 100(4) and 105(4) of the Act.

- (B) the chief executive had not received the submission; and

- (d) before the commencement, the holder of the converted allocation gave the chief executive a statutory declaration stating that, to the best of the holder's knowledge, the holder—
 - (i) never received a letter explaining the implications of the section 100 notice; or
 - (ii) within the required time, properly made a submission about the previous draft resource operations plan asking for a particular nominal volume for the converted allocation.
- (2) The chief executive may amend the nominal volume for the converted allocation.
- (3) In deciding whether to amend the nominal volume, the chief executive must consider—
 - (a) the nominal volume for the original allocation; and
 - (b) the nominal volume for the converted allocation; and
 - (c) the extent to which the potential productive capacity of the holder's enterprise—
 - (i) is dependent on supplemented water; and
 - (ii) includes the efficient use of supplemented water; and
 - (d) the local availability of supplemented water.
- (4) Subsection (3) does not limit the matters the chief executive may consider.
- (5) Despite subsection (2), the chief executive can not amend the nominal volume so that—
 - (a) the amended nominal volume exceeds the nominal volume for the original allocation; or

[s 8]

- (b) the total of all nominal volumes as amended under this section exceed the total of the nominal volumes for all converted allocations by more than 124ML.
- (6) In this section—
- previous draft resource operations plan* means the draft resource operations plan made available for inspection on 29 October 2013.
- previous resource operations plan* means the resource operations plan as in force on 26 September 2014.
- section 100 notice*, means the notice published under section 100(1) of the Act for the previous draft resource operations plan on 29 October 2013.

Division 5 Authorised taking or interfering with water without water entitlement

51 Limitations on taking or interfering with water—Act, s 20(2)

- (1) For section 20(2) of the Act, a person may, in each financial year, take or interfere with up to 5ML of water for prescribed activities.
- (2) Also, water in the area of a water supply scheme described in this plan can not be taken or interfered with for prescribed activities.
- (3) In this section—
- prescribed activities* means activities prescribed under a regulation for section 20(2)(a) of the Act.

52 Taking water for stock or domestic purposes

For section 20A(5) of the Act, an owner of land may take water from a watercourse, lake or spring for stock or domestic purposes—

- (a) from any location in the plan area, other than the area of a water supply scheme described in this plan; and
- (b) in any way.

9 Amendment of ss 62 and 64

Sections 62(c) and 64(1), from ‘project declared’—

omit, insert—

coordinated project.

10 Insertion of new s 106A

After section 106—

insert—

106A Additional nominal entitlement for Don and Dee Rivers and Alma Creek WMA water licences

- (1) The chief executive may decide an additional nominal entitlement for a Don and Dee Rivers and Alma Creek WMA water licence.
- (2) In deciding the additional nominal entitlement, the chief executive must consider—
 - (a) the area of land, if any, stated on the superseded version of the Don and Dee Rivers and Alma Creek WMA water licence; and
 - (b) the nominal entitlement for the water licence as calculated under section 106; and

[s 11]

- (c) the extent to which the enterprise for the water licence is dependent on unsupplemented water; and
 - (d) the local availability of unsupplemented water; and
 - (e) the total volume of water that can be effectively managed by the water licence holder's enterprise infrastructure; and
 - (f) the purpose for the taking of water stated on the superseded version of the water licence; and
 - (g) the total volume of water taken by the holder under the superseded version of the water licence.
- (3) Subsection (2) does not limit the matters the chief executive may consider.
 - (4) The additional nominal entitlement applies only to the extent permitted under the water sharing rules stated in the resource operations plan for the Don and Dee Rivers and Alma Creek Water Management Area.
 - (5) In this section—

Don and Dee Rivers and Alma Creek WMA water licence means an amended water licence to take unsupplemented water from a watercourse, lake or spring in the Don and Dee Rivers and Alma Creek Water Management Area.

superseded version, of a Don and Dee Rivers and Alma Creek WMA water licence, means the water licence as in force on 29 September 2014.

11 **Amendment of s 116 (Limitation on taking or interfering with groundwater—Act, s 20(2))**

Section 116(2)—

insert—

- (g) for an activity prescribed under a regulation for section 20(2)(a) of the Act.

12 Insertion of ch 5, pt 3, div 4, sdiv 1, hdg

Chapter 5, part 3, division 4, before section 137—

insert—

Subdivision 1 Preliminary

13 Amendment of s 137 (Application of div 4)

- (1) Section 137(a), before ‘section 51’—

insert—

previous

- (2) Section 137(c), ‘an authorisation mentioned in section 129’—

omit, insert—

a section 129 authorisation

14 Amendment of s 139 (Definitions for div 4)

- (1) Section 139, definitions *converting authorisation* and *preliminary volume*—

omit.

- (2) Section 139—

insert—

converted section 129 authorisation means a section 129 authorisation that has been converted to a section 137(c) allocation.

converting authorisation means either of the following—

- (a) an interim water allocation mentioned in previous section 51;
- (b) an authorisation mentioned in section 129.

[s 15]

pre-conversion use volume, for a converted section 129 authorisation, see section 142A.

previous section 51 means section 51 as in force immediately before the commencement.

section 137(c) allocation means a water allocation mentioned in section 137(c).

- (3) Section 139, definition *annual adjusted use volume*, ‘for a 2010 authorisation’—

omit, insert—

for a water year in the HOU consideration period, for a 2010 authorisation or a converted section 129 authorisation

- (4) Section 139, definition *pre-2010 contributing authorisation*, first example, ‘authorisation B and C’—

omit, insert—

authorisations B and C

15 Insertion of new ch 5, pt 3, div 4, sdiv 2, hdg

After section 139—

insert—

**Subdivision 2 Nominal entitlements,
nominal volumes and
annual volumetric limits**

16 Insertion of new ch 5, pt 3, div 4, sdiv 3, hdg

After section 140—

insert—

**Subdivision 3 Preliminary nominal
volumes, preliminary
nominal entitlements and
preliminary annual
volumetric limits**

17 Amendment of s 141 (Preliminary nominal volume, nominal entitlement or annual volumetric limit)

(1) Section 141(1)—

insert—

- (aa) for a section 137(c) allocation that has been converted from water licence 43919D or 68856D—the nominal entitlement of the water licence; or
- (ab) for any other section 137(c) allocation—
 - (i) if the pre-conversion use volume for the converted section 129 authorisation for the allocation is 0ML—5ML; or
 - (ii) if the pre-conversion use volume for the converted section 129 authorisation for the allocation is no more than 5% of the nominal entitlement for the authorisation—5% of the nominal entitlement or 5ML, whichever is the greater; or
 - (iii) if the pre-conversion use volume for the converted section 129 authorisation for the allocation is more than 5% but no more than 35% of the nominal entitlement for the authorisation—35% of the nominal entitlement; or
 - (iv) if the pre-conversion use volume for the converted section 129 authorisation for the allocation is more than 35% but no more than 65% of the nominal entitlement for the authorisation—the pre-conversion use volume; or
 - (v) if the pre-conversion use volume for the converted section 129 authorisation for the allocation is more than 65% of the nominal entitlement for the authorisation—

[s 18]

(A) if the nominal entitlement was more than 250ML—65% of the nominal entitlement; or

(B) otherwise—the pre-conversion use volume; or

Note—

The chief executive may decide an additional annual volumetric limit for a section 137(c) allocation under subdivision 5.

(2) Section 141(1)(aa) to (b)—

renumber as section 141(1)(b) to (d).

(3) Section 141(2), ‘subsection (1)(b)(ii)’—

omit, insert—

subsection (1)(d)(ii)

18 Replacement of s 142 (2010 authorisation volume)

Section 142—

omit, insert—

142 2010 authorisation volume

The *2010 authorisation volume*, for a 2010 authorisation, is the mean, rounded up to the nearest megalitre, of the five largest annual adjusted use volumes for the 2010 authorisation for water years in the HOU consideration period.

142A Pre-conversion use volume

The *pre-conversion use volume*, for a converted section 129 authorisation, is—

(a) if no water was taken under the authorisation during the HOU consideration period—0ML; or

(b) otherwise—the mean, rounded up to the nearest megalitre, of the five largest annual

adjusted use volumes for the authorisation for water years in the HOU consideration period, plus 5ML.

19 Amendment of s 143 (Annual adjusted use volume)

Section 143(1)—

omit, insert—

- (1) The ***annual adjusted use volume***, for a water year in the HOU consideration period—
 - (a) for a 2010 authorisation, is equal to—
 - (i) if the 2010 authorisation is not affected by a subdivision or amalgamation of an authorisation during the HOU consideration period—the deemed use for the 2010 authorisation for the water year as adjusted under subsection (2); or
 - (ii) otherwise—the sum of the deemed use for each pre-2010 contributing authorisation in existence on the last day of the water year as adjusted under subsections (2) and (3); or
 - (b) for a converted section 129 authorisation, is equal to the deemed use for the authorisation for the water year as adjusted under subsection (2).

20 Amendment of s 144 (Deemed use for an authorisation)

- (1) Section 144, heading, ‘for an authorisation’—

omit.

- (2) Section 144(1), ‘2010 authorisation and pre-2010 contributing authorisation’—

omit, insert—

[s 21]

2010 authorisation, pre-2010 contributing
authorisation and converted section 129 authorisation

21 Insertion of new ch 5, pt 3, div 4, sdiv 4, hdg

After section 144—

insert—

**Subdivision 4 Submissions for additional
nominal volumes,
additional nominal
entitlements and
additional annual
volumetric limits**

**22 Amendment of s 145 (Additional nominal volume,
nominal entitlement or annual volumetric limit)**

(1) Section 145, heading, after ‘limit’—

insert—

**for particular authorisations if submission lodged
under Act, s 100(4)**

(2) Section 145(1)(a), ‘section 100(2)’—

omit, insert—

section 100(4)

(3) Section 145(2), ‘criteria’

omit, insert—

criterion for a relevant authorisation

(4) Section 145(3)(c), ‘as determined under section 141’—

omit.

(5) Section 145(3)(f), ‘criteria’—

criterion for the authorisation

(6) Section 145(4)(c)(i), ‘14500ML’—

omit, insert—

14624ML

- (7) Section 145(6), definitions *enterprise* and *potential productive capacity—*

omit.

- (8) Section 145(6)—

insert—

preliminary volume, for a relevant authorisation, means any of the following applying in relation to the relevant authorisation under section 141—

- (a) the preliminary nominal volume for a supplemented water allocation;
 - (b) the preliminary nominal entitlement for a water licence;
 - (c) the preliminary annual volumetric limit for an unsupplemented water allocation.
- (9) Section 145(6), definition *relevant limitation criteria*, ‘*criteria*’—

omit, insert—

criterion

23 Insertion of new ch 5, pt 3, div 4, sdiv 5

Chapter 5, part 3, division 4, after section 145—

insert—

Subdivision 5 Additional annual volumetric limits

145A Additional annual volumetric limits for particular section 137(c) allocations

- (1) This section applies to a section 137(c) allocation, other than an allocation mentioned in section 141(1)(b), if—

[s 23]

- (a) the total of the preliminary annual volumetric limits for all relevant Lower Callide authorisations does not exceed 6000ML; and
 - (b) the chief executive is satisfied the preliminary annual volumetric limit for the allocation as calculated under section 141(1)(c) is not sufficient for the enterprise for the allocation.
- (2) The chief executive may decide an additional annual volumetric limit for the allocation.
- (3) In deciding the additional annual volumetric limit, the chief executive must consider—
 - (a) the nominal entitlement for the converted section 129 authorisation for the allocation; and
 - (b) the preliminary annual volumetric limit for the allocation as calculated under section 141(1)(c); and
 - (c) the extent to which the enterprise for the allocation is dependent on groundwater; and
 - (d) the local availability of groundwater; and
 - (e) the total volume of water that can be effectively managed by the holder's enterprise infrastructure.
- (4) Subsection (3) does not limit the matters the chief executive may consider.
- (5) Despite subsection (2), the chief executive can not decide an additional annual volumetric limit for the allocation that would cause—
 - (a) the total of the preliminary annual volumetric limit and the additional annual volumetric limit for the allocation to exceed the nominal entitlement for the converted section 129 authorisation for the allocation; or

(b) the total of the preliminary annual volumetric limits and the additional annual volumetric limits for all relevant Lower Callide authorisations to exceed 6000ML.

(6) In this section—

relevant Lower Callide authorisation means—

- (a) a section 129 authorisation; or
- (b) a section 137(c) allocation.

24 Insertion of new sch 3A

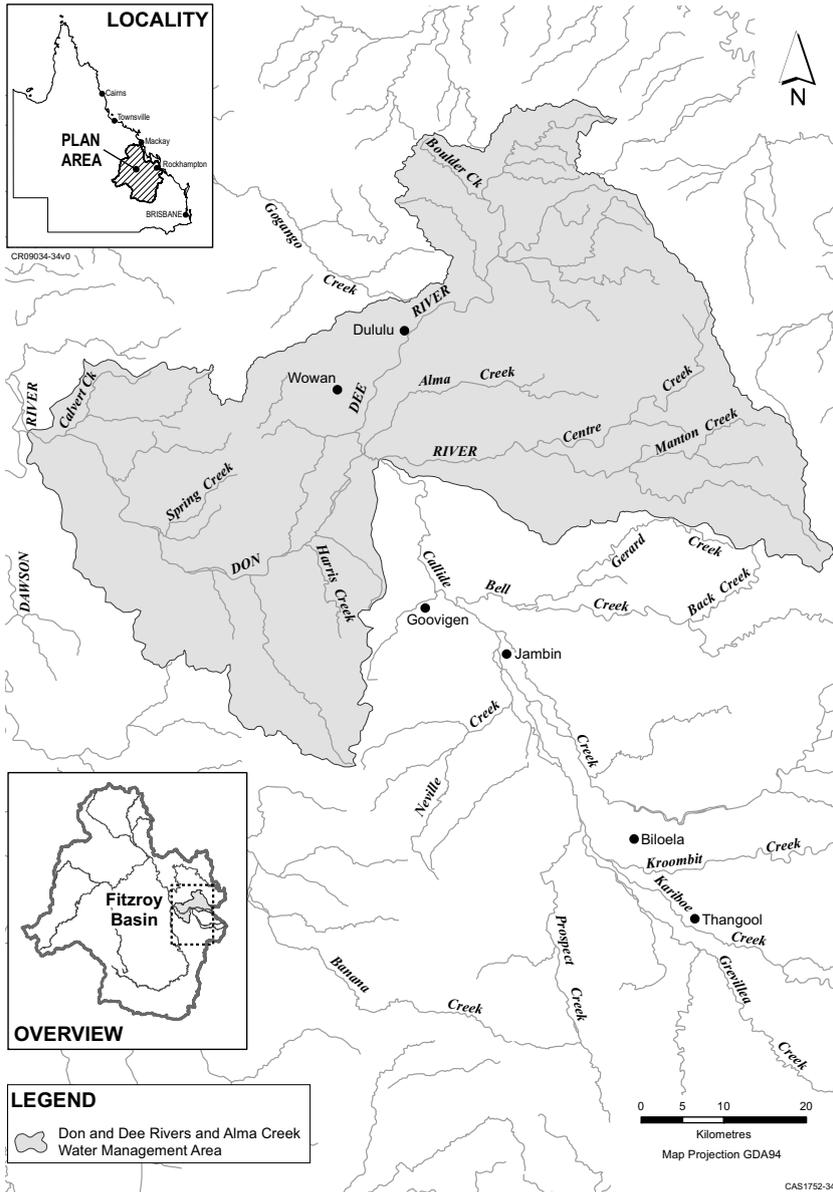
After schedule 3—

insert—

[s 24]

Schedule 3A Water management area

section 7A



25 Amendment of sch 6 (Environmental flow objectives)

Schedule 6, part 3, section 3, definition *first post-winter flow event*, item 1, paragraph (c)(ii)(A), ‘3m’—

omit, insert—

1.5m

26 Amendment of sch 7 (Water allocation security objectives)

(1) Schedule 7, section 5, item 1, ‘GWA1A’—

omit, insert—

GW1A

(2) Schedule 7, section 5, item 2, ‘GWA1B’—

omit, insert—

GW1B

27 Amendment of sch 8 (Unallocated water)

(1) Schedule 8, parts 1 and 4, column 1, heading, after ‘Subcatchment’—

insert—

area

(2) Schedule 8, part 3—

omit, insert—

[s 28]

Part 3 General reserve surface water that may be granted—water licence or water allocation

Column 1	Column 2
Subcatchment area or part of subcatchment area	Mean annual diversion (ML)
The Isaac Connors subcatchment area	32000
The Fitzroy subcatchment area	
The Don and Dee Rivers and Alma Creek Water Management Area	
The Lower Mackenzie subcatchment area	
The Upper Mackenzie subcatchment area	0
The Nogoia subcatchment area	0
The Upper Dawson subcatchment area	11500
The Lower Dawson subcatchment area, other than the Don and Dee Rivers and Alma Creek Water Management Area	0
The Comet subcatchment area	0
Downstream of the Fitzroy Barrage subcatchment area	0

28 Amendment of sch 13 (Dictionary)

- (1) Schedule 13, definition *project of State significance*—
omit.
- (2) Schedule 13—
insert—

converted section 129 authorisation, for chapter 5, part 3, division 4, see section 139.

coordinated project means a project—

-
- (a) declared under the *State Development and Public Works Organisation Act 1971*, section 26 to be a coordinated project; or
 - (b) taken, under section 190 of that Act, to be a coordinated project.

Don and Dee Rivers and Alma Creek Water Management Area see section 7A.

enterprise means—

- (a) for a water entitlement—any activity undertaken by the holder of the entitlement for the purpose stated on the entitlement, whether or not for commercial gain; or
- (b) for the holder of a water entitlement—any activity undertaken by the holder for the purpose stated on the entitlement, whether or not for commercial gain.

enterprise infrastructure, for the holder of a water entitlement, means all water infrastructure used by the holder in relation to an enterprise for any water entitlement.

potential productive capacity, of the enterprise of a holder of a water entitlement, means the potential volume of product that may have been produced as at 14 December 2010, regardless of the actual volume of product that may have been produced as at 14 December 2010.

pre-conversion use volume, for a converted section 129 authorisation, see section 142A.

previous section 51, for chapter 5, part 3, division 4, subdivision 1, see section 139.

project of regional significance means a project the chief executive considers to be a project of regional significance under section 42.

section 129 authorisation means an authorisation mentioned in section 129.

[s 28]

section 137(c) allocation, for chapter 5, part 3, division 4, see section 139.

- (3) Schedule 13, definition *Callide Valley Water Supply Scheme*, ‘interim’—

omit.

- (4) Schedule 13, definition *State purpose*, paragraph (a)—

omit, insert—

- (a) a coordinated project; or

ENDNOTES

- 1 Approved by the Governor in Council on 10 September 2015.
2 Notified on the Queensland legislation website on 11 September 2015.
3 The administering agency is the Department of Natural Resources and Mines.

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Authorised by the Parliamentary Counsel