



Queensland

Water Resource (Baffle Creek Basin) Plan 2010

Explanatory Notes for SL 2010 No. 306

made under the

Water Act 2000

General outline

The explanatory notes are a 'plain English' version of the *Water Resource (Baffle Creek Basin) Plan 2010* ('the plan'). They are intended to provide the reader with some explanation and background information on the clauses in the plan.

Numbering of the explanatory notes corresponds with the numbering of the plan. These notes should be read in conjunction with the plan. The explanatory notes are not intended to be comprehensive but merely a guide to assist the reader in understanding the plan.

Title

Water Resource (Baffle Creek Basin) Plan 2010.

Authorising law

Chapter 2, Part 3, Division 2 of the *Water Act 2000*.

Policy objectives of the legislation

Section 38 of the *Water Act 2000* ('the Act') provides for the Minister to prepare a water resource plan for any part of Queensland to advance the sustainable management of water.

The objective of the plan is to provide a framework for the allocation and sustainable management of surface water (including overland flow water) in the plan area to meet future water requirements, including the protection of natural ecosystems and security of supply to water users. The plan area includes the Littabella, Baffle, Broadwater, Eurimbula and Worthington Creeks and their tributaries.

The plan provides for the allocation and sustainable management of surface (including overland flow) water by—

- defining the availability of water in the plan area;
- providing a framework for sustainably managing water and the taking of water;
- identifying priorities and mechanisms for dealing with future water requirements;
- providing a framework for minimising, where practicable, degradation in natural ecosystems; and
- regulating the taking of overland flow water.

Legislation consistent with policy objectives of authorising law

The subordinate legislation is consistent with the policy objectives of the Act.

Alternative means of achieving policy objectives

The Act sets out the framework for development of a water resource plan. There are no alternative means of achieving the policy objectives.

Estimated cost for Government

Funding for the development and implementation of the water resource plan has been allocated to the Department of Environment and Resource Management ('the department') under the Water Reform Continuity of

Supply funds allocation. Accordingly, the plan should not alter the present cost to government of administering the Act.

Consistency with fundamental legislative principles

The subordinate legislation is consistent with fundamental legislative principles.

Consultation

Government departments and agencies affected by the changes have been consulted in respect of the plan. In addition, cultural, economic and environmental interest groups have been consulted in accordance with the water resource planning process as outlined in the Act.

Outcomes of community consultation are outlined in a separate document Baffle Creek Basin Water Resource Plan Consultation Report.

Regulatory Impact Statement

Section 58 of the Act states that a regulatory impact statement is not required for the approval of a water resource plan.

Notes on Provisions

Chapter 1 Preliminary

Chapter 1 provides preliminary information about the plan including the short title of the plan, the purposes of the plan and where the definitions for particular words used in the plan are located.

Short title

Clause 1 specifies the short title to the subordinate legislation as the *Water Resource (Baffle Creek Basin) Plan 2010* ('the plan').

Purposes of the plan

Clause 2 states the purposes of the plan. The purposes reflect the requirements of section 38 of the Act.

Definitions

Clause 3 specifies that certain terms are defined in the dictionary in schedule 9.

Chapter 2 Plan area and water to which plan applies

Chapter 2 defines the plan area, the catchment and subcatchment areas for the plan and the nodes mentioned in the plan. This chapter also states where information about the boundaries of the plan area, and other areas referred to in the plan, are held. The water to which the plan applies is stated in this chapter of the plan.

Plan area

Clause 4 states that a map of the plan area is shown in schedule 1. The plan area includes the Littabella, Baffle, Broadwater, Eurimbula and Worthington creeks and their tributaries.

Catchment and Subcatchment areas

Clause 5 and Clause 6 state that a map of the catchment and subcatchment areas in the plan area is shown in schedule 2. Specifying catchment and subcatchment areas provides for more effective management and planning

of water resources by focusing on the ecological and consumptive needs of smaller areas within the larger overall plan area.

The plan area is divided into five catchment areas—

- Littabella Creek catchment area
- Baffle Creek catchment area
- Broadwater Creek catchment area
- Eurimbula Creek catchment area
- Worthington Creek catchment area

Broadwater Creek catchment area is further divided into two subcatchment areas, the Deepwater Creek subcatchment area and the Blackwater Creek subcatchment area.

Information about areas

Clause 7 states that the exact location of the boundaries of the plan area, catchment areas and subcatchment areas are held in electronic map form at departmental offices where they can be inspected in detail.

Nodes

Clause 8 defines nodes mentioned in the plan. A node generally defines a specific location on a watercourse within the plan area. Nodes can be used within the water resource plan and the resource operations plan where definitive locations or reference points are necessary. For example, nodes are used in the specification of environmental flow objectives as described under Chapter 4 of this plan. The nodes used in this plan are numbered, their locations are shown on the map in schedule 1 and they are described in schedule 3.

Water to which plan applies

Clause 9 states that the plan applies to surface water (that is, water in watercourses, lakes, or springs and overland flow water) in the plan area. The clause clarifies that this plan does not deal with water in springs that is either connected to artesian water or subartesian water connected to artesian water.

Chapter 3 Outcomes for sustainable management of water

Chapter 3 states the outcomes, including the ecological outcomes, which the plan seeks to achieve through implementing particular management strategies. Inclusion of these outcomes meets the requirement in section 46(1)(e) of the Act.

There are three different types of outcomes specified under the plan—

- general outcomes;
- ecological outcomes; and
- specific ecological outcomes.

Outcomes for water in plan area

Clause 10 establishes that outcomes in clauses 11 to 13 have been developed while recognising that in some parts of the plan area the natural environment has been altered through water resource development.

This clause also establishes that water is to be allocated and managed in a way that seeks to achieve a balance in the general, ecological and specific ecological outcomes of the plan.

The term *balance*, as referred to above, does not necessarily imply that each outcome will be given equal weighting or that any specific weighting is attached to particular outcomes. Instead, the outcomes should be seen as a complementary set that work together to achieve sustainable management of water in the plan area.

General outcomes

Clause 11 states the general outcomes for the allocation and sustainable management of surface water in the plan area. These outcomes give an overview of what the plan aims to achieve through implementing the specified management strategies. The outcomes include providing for existing water use, providing for future water requirements, to maintain flows that support water related aesthetic and recreational values, supporting surface water and groundwater interactions, promoting water use efficiency and supporting water related cultural values.

Ecological outcomes

Clause 12 states the ecological outcomes for the allocation and sustainable management of water in the plan area. The plan seeks to achieve these outcomes, which include minimising changes to the natural variability of flows, providing for connectivity across the aquatic system, minimising adverse impacts on aquatic ecosystems immediately downstream of new water resource development and promoting improved understanding of how flows affect aquatic ecosystems.

Specific ecological outcomes

Clause 13 states the specific ecological outcomes for the allocation and management of water in particular parts of the plan area. These specific ecological outcomes do not limit the ecological outcomes in Clause 12, which apply to the whole plan area.

Specific parts of the plan area were identified through community consultation and independent scientific assessments as areas requiring particular ecological outcomes. The plan seeks to achieve these outcomes in specified areas, which include the maintenance of near-natural flow regimes and the maintenance of brackish habitat.

Chapter 4 Performance indicators and objectives

Chapter 4 states the performance indicators and environmental flow objectives for this plan.

Performance indicators for environmental flow objectives

Clause 14 states the performance indicators for the environmental flow objectives. A performance indicator is defined in the Act as a measure that can be calculated and is stated in a water resource plan to assess the impact of an allocation and management decision or proposal, on water entitlements and natural ecosystems.

These indicators allow for environmental flow targets to be established and so limit the changes to important aspects of the flow regime that may arise from future allocation and management decisions.

The specified performance indicators represent important key flow characteristics and are based on technical advice received during the plans development. The mean and median annual flow indicators relate to total system flows.

Environmental flow objectives

Clause 15 states that the environmental flow objectives are set out in schedule 4.

The objectives are statistically derived values that support the achievement of the general and specific ecological outcomes as set out in chapter 3. The plan's objectives accommodate additional unallocated water that is provided for in various parts of the plan area and balance environmental and consumptive requirements.

Any future decisions about the allocation and management of water in the plan area must comply with the environmental flow objectives defined in schedule 4 of this plan. This requirement is separate and in addition to any other approvals or assessments that may be required—for example, approvals for works under the *Sustainable Planning Act 2009* or environmental impact assessments required by other legislation.

These decisions will be tested using the department's IQQM computer program or another approved method (see clause 17).

To allow for sound management of the water, the environmental flow objectives apply at a basin wide level and at the downstream end of each individual catchment.

The basin wide flow objectives apply at any point on a watercourse and aim to minimise adverse impacts on aquatic ecosystems downstream of new water resource development. The specific flow objectives apply at defined end of system nodes and limit the reduction in total catchment flows.

Chapter 5 Strategies for achieving outcomes

Chapter 5 provides the strategies for achieving the plan outcomes discussed in Chapter 3. Inclusion of these strategies meets the requirement in section 46(1)(f) of the Act.

Part 1 Preliminary

Part 1 establishes that decisions made about the allocation or management of water must be consistent with the environmental flow objectives, stated in schedule 4 and specifies which method should be used to assess the impact of these decisions and indicates what the metering requirements for certain water entitlements in the plan area might be.

Decisions to be consistent with environmental flow objectives

Clause 16 requires that decisions made about the allocation or management of water in the plan area are to be consistent with the environmental flow objectives detailed in schedule 4. This ensures that environmental flows are maintained and establishes consistent and transparent considerations for decision making.

Decisions about water permits are excluded from this requirement because the water taken during short permit periods is deemed not to have any affect on the objectives, which have been developed using long-term historical data. However, separate consideration of the impacts on natural ecosystems and water authorisations is required in deciding whether to grant or refuse an application for a water permit under section 239 of the Act.

Assessing impact of decisions

Clause 17 states that the department's IQQM computer program is used to assess the consistency of decisions about the allocation and management of water in the plan area with the environmental flow objectives.

The IQQM simulates all the major surface water processes that occur within a catchment including water extractions, instream losses and the climatic and seasonal variability in stream flows. The model was developed using historical data for the period 1889 to 2007 (118 years). As such, the testing of compliance with the plans objectives is done by using this simulation data.

The clause also states that if it is not practicable to use the IQQM, the chief executive may approve another method if satisfied that it will be at least as accurate as the IQQM in assessing consistency with plan objectives.

Decisions are not to increase amount of water taken

Clause 18 states that the chief executive must not make a decision that would increase the average volume of water available to be taken under any authorisation in the plan area. This clause does not apply to a decision about unallocated water, a water permit, a licence granted in accordance with clauses 39 and 40 of this plan, reinstating an expired licence, replacing an original licence with two or more licences or replacing an expired licence.

The clause effectively limits the amount of water that can be taken from the plan area to the amount identified by the plan. The plan has been developed in recognition of full utilisation of existing water entitlements and provision of additional allocation to meet future water needs. The provision of any water outside this framework could potentially impact the outcomes of the plan.

Measuring devices

Clause 19 indicates that a measuring device will be used to measure the volume of water taken under water entitlements to take water from a watercourse, lake or spring. The requirement to meter these water entitlements will take effect from the day the water entitlements are declared to be metered entitlements under the *Water Regulation 2002*, part 7.

Metering water use is fundamental to the management of the state's water resources as accurate information on the amount of water taken from our catchments is required for sound management decisions, both by the government and individual users.

Metering will provide accurate water use data to ensure that users comply with the conditions of their water entitlements and will assist users in using water more efficiently.

Metered water use information will also support improved future planning. This information will be integrated with other knowledge about the plan area to improve our understanding of how water resources support the rural economy, communities and the natural environment.

The department, under a state-wide metering program, is installing meters in catchments where resource operations plans are in place, and in other situations.

Part 2 Unallocated water

Part 2 deals with matters relating to unallocated water including the continued effect of the moratorium notice, interim arrangements for applications about unallocated water, the establishment of general and strategic reserves and dealing with unallocated water under the resource operations plan.

Division 1 Continued moratorium and interim arrangements for applications

Continued effect of moratorium notice—Act, s 46(3)

A moratorium on water applications was announced on 16 July 2004, and amended on 27 September 2008, under section 26 of the Act. The purpose of the moratorium was to maintain the level of water being taken or interfered with while the plan was being developed. The moratorium remained in effect until this plan was approved by the Governor in Council.

Clause 20 continues, in part, the effect of the moratorium notice. The clause applies to applications that would increase the amount of water taken, change the location of take, increase the maximum rate of take or change the flow conditions under which water may be taken or increase or change the interference with water. Until the resource operations plan is approved new applications that would have any of these effects will not be

accepted. Existing applications that would have any of the effects stated are dealt with under Clause 21.

This clause does not apply to an application for—

- a water permit; or
- reinstatement or replacement of an expired water licence or subdivision or amalgamation of an existing water licence(s); or
- a water licence to interfere with water in Bottle Creek made by Gladstone Regional Council; or
- a project of state or regional significance; or
- town water supply; or
- stock and domestic purposes.

Once the resource operations plan is in place, it is intended that new water entitlements will be available only through the release of unallocated water under a market-based approach.

Particular applications made before 16 July 2004

Clause 21 applies to applications for water licences for taking or interfering with water, made under the Act or the repealed Act before 16 July 2004 that were not finally decided before the commencement of this plan. Applications that have not been finally decided include applications where an original decision has not been made or where an internal review process has not been completed. Applications held by the chief executive will be refused if their granting would increase the amount of water taken, change the location of take, increase the maximum rate of take, change the flow conditions under which water may be taken or increase or change the interference with water.

However, this clause does not apply to applications to reinstate an expired licence, amalgamate two or more licences, replace an original licence with two or more water licences or replace an expired licence with one or more licences.

This clause ensures that any future allocation of water occurs sustainably through a market-based unallocated water release process that will be detailed in the finalised resource operations plan.

Interim arrangements for applications about unallocated water

Clause 22 states that an application for water for a project of State or regional significance, town water supply or for stock and domestic purposes may be accepted and dealt with under the plan prior to the resource operations plan stating a process for dealing with unallocated water.

Where the chief executive approves any applications made under this provision for projects of State or regional significance or for town water supply, the volume granted will be sourced from the total volume of unallocated water identified as strategic reserve under the plan.

Where the chief executive approves any applications made under this provision for stock and domestic purposes, the volume granted will be sourced from the total volume of unallocated water identified as general reserve under the plan.

Division 2 Unallocated water reserves

Subdivision 1 Strategic and general reserves

Unallocated water held as strategic reserve and general reserve

Clause 23 states that unallocated water to satisfy future demand for water is to be established under a strategic and general reserve.

Subdivision 2 Unallocated water held as strategic reserve

Purpose for which unallocated water held as strategic reserve may be granted

Clause 24 states that unallocated water held as the strategic reserve may only be made available for state purposes. Examples of such purposes would be a project of state or regional significance or to provide for town water supplies.

Volumetric limits

Clause 25 states that the total of the nominal entitlements for all water licences granted from the strategic reserve is as stated in schedule 5, part 1, column 2.

In the schedule 5 table, the volume is listed in column 2 adjacent to its respective catchment area.

Period for which water is granted for particular State purpose

Clause 26 indicates that, for a project of State or regional significance, water granted from the strategic reserve is only granted for the life of the project. On conclusion of the project the water licence is repealed and the water is returned to the strategic reserve. This allows for water to be continually available for new and future projects which may only require water for a limited time.

Projects that may be considered to be of regional significance

Clause 27 allows for the chief executive to consider a project to be of significance to the region, after having regard to the listed matters. A project of regional significance can have access to strategic unallocated water.

Subdivision 3 Unallocated water held as general reserve

Purpose for which unallocated water held as general reserve may be granted

Section 28 states that unallocated water held as general reserve can be made available for any purpose subject to a release process to be stated in the resource operations plan.

Volumetric limits

Clause 29 states that the total of the nominal entitlements for all water licences granted from the general reserve is as stated in schedule 5, part 2, column 2.

As the anticipated future water demand varies between catchments, differing amounts of general unallocated water reserve has been provided for each catchment by the plan. In the schedule 5 table, the volume is listed in column 2 adjacent to its respective catchment area.

Division 3 Other limitations on granting unallocated water

Restrictions on taking water from lakes

Clause 30 prohibits the granting of a water licence to take water, obtained through the unallocated water release process, from a lake. Under the Act, a lake includes off stream lagoons which are present in the Baffle plan area. This provision does not apply to the take of water from a dam impoundment.

This clause will help to provide protection to off-stream lagoons which are recognised as important habitats and places of refuge for aquatic plants and animals, and can have significant cultural value to traditional owners.

Pass flow conditions for taking unallocated water

Clause 31 states that all water licences granted from the strategic and general reserves to take water from a watercourse must include a pass flow condition.

A pass flow condition for a licence to take water is a condition which states the rate of flow in a watercourse that must be passing downstream of the point of take while water is being taken.

When determining the pass flow condition, which is expressed in megalitres per day, the chief executive must consider a number of factors including existing downstream entitlement holders, the daily volumetric limit that will be stated on the licence and the minimum pass flow condition.

The minimum pass flow condition for the Baffle Creek catchment must be the greater of the catchment area upstream of the proposed point of take (in square kilometres) multiplied by 0.3561 and 86.4 megalitres a day.

The minimum pass flow condition for the Littabella Creek catchment must be the greater of the catchment area upstream of the proposed point of take (in square kilometres) multiplied by 1 and 43 megalitres a day.

The minimum pass flow condition for the Broadwater Creek, Eurimbula Creek and Worthington Creek catchment areas must be at least 86.4 megalitres a day.

The pass flow condition would generally be determined by firstly establishing the minimum pass flow at the proposed location of take and then increasing this flow to account for existing downstream entitlement holders including the daily volumetric limits and pass flow conditions on their entitlements.

Stating a pass flow condition on all licences to take water from a watercourse will help to protect in-stream waterholes and access by existing downstream water users.

Division 4 Dealing with unallocated water under the resource operations plan

Process for dealing with unallocated water

Clause 32 states criteria that the chief executive must consider when developing the process for dealing with unallocated water under the resource operations plan. These criteria seek to encourage sustainable and efficient use of water when providing additional water for consumptive use.

The considerations listed in this clause do not limit matters the chief executive may consider in developing and implementing the process for dealing with unallocated water.

Part 3 Interference with water in a watercourse, lake or spring

Part 3 outlines additional limitations and considerations when dealing with applications for a water licence to interfere with the flow of water by impoundment, under section 206 of the Act.

Application of pt 3

Clause 33 states that part 3 only applies to applications made under section 206 of the Act for a water licence to interfere with water in a watercourse, lake or spring by impounding the flow of water.

Limitations on interference with water

Clause 34 states that a licence to interfere with water may only be granted if the proposed interference is for stock or domestic purposes, to provide a pumping pool for an existing or new authorisation, or if the application is made in conjunction with the granting of unallocated water.

A water licence to interfere may also be granted if the application is made by Gladstone Regional Council for a water licence to interfere with water in Bottle Creek at Wills Road.

Despite this clause, a licence to interfere with water must not be granted in Baffle Creek or in the Eurimbula Creek or Worthington Creek catchment areas (see Clause 37).

Interference with water for the provision of a pumping pool

Clause 35 applies if an application to interfere with water is to provide a pumping pool to enable water to be taken under a new or existing authorisation (except in Baffle Creek or in the Eurimbula Creek or Worthington Creek catchment areas—see Clause 37).

The proposed storage capacity of the pumping pool must not be greater than the capacity required to enable the pump to function properly. The impact the proposed interference may have on matters such as in-stream water levels, water quality, natural movement of sediment, the bed and banks of the watercourse, riparian vegetation, habitats for native plants and

animals, the movement of aquatic species, and recreational, aesthetic, cultural and ecological values of watercourses must also be minimised.

In deciding the application to interfere with water, the chief executive must also consider any alternative methods for providing for the operation of the pump that may minimise the impacts described above, such as a pump well constructed in bed sand.

Interference with water related to the granting of unallocated water

Clause 36 applies if the application to interfere is related to and is made in conjunction with the granting of unallocated water (except in Baffle Creek or in the Eurimbula Creek or Worthington Creek catchment areas—see Clause 37) and states that the interference (the size of the in-stream storage) must not be greater than is necessary for the purpose of taking the related unallocated water.

In deciding the application, the chief executive must consider the impact the proposed inference may have on in-stream water levels, water quality, natural movement of sediment, the bed and banks of the watercourse, riparian vegetation, habitats for native plants and animals, the movement of aquatic species, and recreational, aesthetic, cultural and ecological values of watercourses.

The water licence for this interference must include a pass flow condition. A pass flow condition for a water licence to interfere is a condition which states the minimum rate of flow in a watercourse below which all flows interfered with under the licence must be allowed to pass freely to a point immediately downstream of the location of the interference.

When determining the pass flow condition for the licence the chief executive must consider all existing downstream entitlement holders and the minimum pass flow condition.

The minimum pass flow condition (expressed in megalitres a day) for the Baffle Creek catchment (in tributary streams only—see Clause 37) must be the greater of the catchment area upstream of the proposed point of take (in square kilometres) multiplied by 0.3561 and 86.4 megalitres a day.

The minimum pass flow condition (expressed in megalitres a day) for the Littabella Creek catchment must be the greater of the catchment area upstream of the proposed point of take (in square kilometres) multiplied by 1 and 43 megalitres a day.

The minimum pass flow condition for the Broadwater Creek catchment area must be at least 86.4 megalitres a day.

Interference with water in Baffle Creek, Eurimbula Creek catchment and Worthington Creek catchment

Clause 37 states that there must not be any interference with water by impounding the flow of water in Baffle Creek or in the Eurimbula Creek or Worthington Creek catchment areas. This clause helps to protect the important environmental values in Baffle Creek and the Eurimbula Creek and Worthington Creek catchment areas by ensuring that streamflow in these areas remains unhindered.

Part 4 Replacing authorities and granting water licences

The plan recognises the variety of pre-existing entitlements that were granted under previous legislative regimes. This part provides for those entitlements to be transitioned into the framework established under the *Water Act 2000*.

Water licences to replace local government authorities

Clause 38 refers to a local government authority issued under the now repealed *Local Government Act 1936*. The *Water Act 2000*, section 1037, allows for these types of authorities to be continued until replaced with a water entitlement.

This clause states that the chief executive will grant a water licence to take water to Gladstone Regional Council to replace the existing Order-in-Council originally granted to the previous Miriam Vale Shire Council. The details of this water licence are described in Schedule 6 of the plan.

Granting particular water licences to relevant entity

Clause 39 provides a process, under section 212 of the *Water Act 2000*, through which the chief executive can grant a water licence to take water from Bottle Creek (located in the Baffle Creek catchment) for domestic purposes to Rosedale Water Supply Association, who are a relevant entity under section 213(e)(vii) of the *Water Act 2000*.

Provided Rosedale Water Supply Association gives the chief executive notice in the approved form of any existing works within 60 business days after the commencement of this plan, the chief executive will grant a water licence with the licence conditions specified in Schedule 7, part 1 of this plan to Rosedale Water Supply Association.

Granting particular water licences to owner of relevant lots

Clause 40 provides a process, under section 212 of the *Water Act 2000*, through which the chief executive can grant a water licence to take water from two particular off-stream lagoons to the owners of lot 54 on RP865516 and lot 32 on FD109. This is to replace previous authorities that allowed the take of water from these off-stream lagoons.

Provided the owners of the lots described give the chief executive notice in the approved form of any existing works within 60 business days after the commencement of this plan, the chief executive will grant water licences with the licence conditions specified in Schedule 7, part 2 of this plan to the owners of the lots described.

Part 5 Water licences to take water from watercourse, lake or spring

Part 5 deals with water licences to take water from a watercourse, lake or spring. This part outlines the elements that must be stated on a water licence and how existing licences are to be amended to include these elements.

Division 1 Form of water licences to take water from watercourse, lake or spring

Division 1 outlines the elements that must be stated on a water licence to take water from a watercourse, lake or spring in the Baffle Creek Basin.

Elements of water licences to take water from watercourse, lake or spring

Clause 41 outlines the elements that must be stated on a water licence including the purpose for which water may be taken, the maximum rate at which water may be taken, the daily volumetric limit for the licence and the nominal entitlement for the licence. The purpose for which water may be taken must be stated on the licence as either ‘stock and domestic’, ‘rural’ or ‘any’. Water licences may also state conditions, including flow conditions and conditions for storing water taken under the licence, and may also state a monthly volumetric limit.

Water licences granted under clause 40 of this plan and licence number 46952B, which are licences for taking water from off-stream lagoons, will not be required to state a nominal entitlement. These licences will however state a draw-down limit as specified in Schedule 7 and Clause 48.

Division 2 Criteria for amending existing water entitlements to achieve plan outcomes

Division 2 specifies how the elements of a water licence are to be determined when amending an existing water licence.

Definition for div 2

Clause 42 defines the term *amended water licence*, a term used throughout this division.

Purpose to be stated on water licence

Clause 43 states how the purpose stated on an amended water licence is to be determined.

If the purpose stated on the existing licence is stock or domestic, the purpose on the amended water licence must be 'stock and domestic'.

Where the existing licence states a purpose of irrigation, stock intensive, agriculture or similar, the purpose on the amended water licence must be 'rural'.

For other existing licences, the purpose stated on the amended water licence must be 'any'. This would typically apply to existing licences that would have a stated purpose of town water supply, mining industrial or waterharvesting.

For example, an existing licence with a stated purpose of 'waterharvesting' would state the purpose of 'any' on the amended licence. However an existing licence with a stated purpose of 'waterharvesting for irrigation', would state the purpose of 'rural' on the amended licence.

Maximum rates for taking water

Clause 44 specifies how the maximum rate at which water may be taken under an amended water licence is to be determined. The clause states that if a maximum rate of take is stated on the existing licence then that same rate will apply to the amended water licence.

Clause 44(1)(b) states that where the maximum rate of take is not stated on the licence but the associated development permit states a pump size that is listed in schedule 8, column 1, then the rate stated in schedule 8, column 2 applies. If the development permit states a pump size that is not mentioned in schedule 8, column 1, then the chief executive must determine a rate having regard to schedule 8, column 2. If the pump size falls between the sizes stated in schedule 8, column 1, then the maximum rate is to be interpolated between those stated in schedule 8, column 2.

However, for clause 44(1)(b), if the holder of the licence satisfies the chief executive that the rate of take is different from the rate listed in schedule 8, column 2, the chief executive will determine a new rate having regard to the conditions under which water may be taken, the water taking capacity of the pump, the irrigation or water distribution system associated with the

licence during the period of not more than 10 years prior to the commencement of the plan and the efficiency of this water use.

If the maximum rate of take is not stated on the existing licence and the associated development permit does not state a pump size for the works, the maximum rate will be determined by the chief executive having regard to the type of licence and an estimate or measurement of the rate at which water can be taken under the authorisation.

Daily volumetric limit

Clause 45 specifies how the daily volumetric limit for an amended water licence is to be determined. The clause states that if the daily volumetric limit is stated on the existing licence then that same daily limit will apply to the amended water licence.

Clause 45(1)(b) states that where the daily volumetric limit is not stated on the existing licence but the associated development permit states a pump size that is listed in schedule 8, column 1, then the limit stated in schedule 8, column 3 applies. If the development permit states a pump size that is not mentioned in schedule 8, column 1, then the chief executive must determine the daily volumetric limit having regard to schedule 8, column 3. If the pump size falls between the sizes stated in schedule 8, column 1, then the daily volumetric limit is to be interpolated between those stated in schedule 8, column 3.

However, for clause 45(1)(b), if the holder of the licence satisfies the chief executive that the daily volumetric limit is different from the limit listed in schedule 8, column 3, the chief executive will determine a new limit having regard to the conditions under which water may be taken under the licence, the water taking capacity of the existing pump under normal operating conditions, the irrigation or water distribution system associated with the licence during the period of not more than 10 years prior to the commencement of the plan and the efficiency of this water use. Normal operating conditions are considered to be those for which the pump and distribution system were designed to operate rather than the maximum capacity at which it could operate.

If the daily volumetric limit is not stated on the existing licence and the associated development permit does not state a pump size for the works, the daily volumetric limit will be determined by the chief executive having regard to the type of licence and an estimate or measurement of the rate at which water can be taken under the licence.

In addition, the chief executive must ensure that the daily volumetric limit for the water licence is not more than the total volume that could be taken in a day at the maximum rate decided under clause 44.

Nominal entitlement

Clause 46 specifies how the nominal entitlement for an amended water licence is to be determined. The nominal entitlement represents the maximum amount of water that can be taken under the water licence in a water year.

If the existing licence states the annual volume of water that may be taken under the licence, the stated volume will be the nominal entitlement for the amended water licence.

Where the existing licence does not state the annual volume of water that may be taken but states an area that may be irrigated under the licence, the nominal entitlement will be decided by the chief executive having regard to the volume of water required for the licence's intended purpose. This nominal entitlement must not be more than the volume, in megalitres, calculated by multiplying the number of hectares by the relevant conversion factor for the catchment or subcatchment listed in clause 46(b).

If the existing licence does not state the annual volume of water that may be taken or the area that may be irrigated, the nominal entitlement will be decided by the chief executive. In making a decision, the chief executive will have regard to the conditions under which water may be taken under the existing licence, the water taking capacity of the existing works, the annual volume of water required for the licence's purpose, the annual volumes of water estimated by the chief executive to have been taken under the licence during the period of not more than 10 years prior to the commencement of the plan and the efficiency of this water use.

Monthly volumetric limit

Clause 47 states the method for determining the monthly volumetric limit to be applied to existing water licences that state an area that may be irrigated.

When deciding the monthly volumetric limit for the amended water licence the chief executive considers the volume of water required for the licences intended purpose. However the monthly volumetric limit (expressed in

megalitres) cannot be more than the area stated on the existing licence (in hectares), multiplied by 2.

Conditions for amended water licences

Clause 48 states that the chief executive may determine and impose any condition on an amended water licence if it is necessary to ensure the purpose and outcomes of the plan are achieved.

Examples of situations where it may be necessary to include other conditions on a water licence are—

- where water availability is limited during seasonal times of low flow; and
- where water availability during times of no flow is restricted to taking water from particular stream features such as waterholes.

In deciding the flow conditions under which water may be taken under an amended water licence, the chief executive must have regard to the conditions on the existing licence.

Clause 48 also states the conditions to be applied to particular amended water licences. Water licence 46952B is to be amended to include a condition that will prohibit the taking of water from the relevant off-stream lagoon (known as ‘lake’ under the *Water Act 2000*) if the water level is less than 2 metres below full supply level. A condition will also be added to this licence to ensure that water taken cannot be stored.

Water licence 35284B is to be amended to include the condition that water must not be taken unless there is at least 1 megalitre a day of flow passing over the barrage at Blackwater Creek.

Storing water taken under a water licence

Clause 49 states that, without limiting the effect of clause 48(1), the chief executive may impose a condition on an amended water licence that states the works that may be used to store water taken under the licence, for example a particular off-stream storage.

In deciding whether to impose a condition the chief executive must have regard to the capacity of any existing overland flow works being used to store the water taken under the licence. This clause is to ensure plan outcomes are not compromised by actions that may increase the take of

overland flow water beyond that provided for under Chapter 5, Part 6 of the plan.

Part 6 Regulating overland flow water

Part 6 deals with the regulation of overland flow water in the plan area. This part outlines the limitation on taking overland flow water in the plan area, the requirements for existing overland flow works, situations where the taking of water using particular existing overland flow works is authorised, the process for granting water licences under the resource operations plan, the elements to be stated on a water licence to take overland flow water, and the relationship between works that allow the taking of overland flow water and the *Sustainable Planning Act 2009*.

Limitation on taking overland flow water—Act, s 20(6)

Clause 50 specifies the situations in which a person may take overland flow water in accordance with section 20(6) of the Act. This means that the taking of overland flow water in the plan area is prohibited unless authorised under this clause.

In the plan area, overland flow water may not be taken other than—

- for stock or domestic purposes (see schedule 4 of the Act for the definition of ‘domestic purposes’ and ‘stock purposes’); or
- for any other purpose if the works for the taking of overland flow water have a capacity of not more than 20 megalitres; or
- under a water licence that authorises the take of overland flow water; or
- the amount necessary to satisfy the requirements of an environmental authority under the *Environmental Protection Act 1994*; or
- the amount necessary to satisfy the requirements of a development permit for carrying out an environmentally relevant activity, other than for a mining or petroleum activity, under the *Environmental Protection Act 1994*; or

- for capturing contaminated agricultural runoff water; or
- under an authority under clause 52.

Notification of particular existing overland flow works

Clause 51 states that the owner of land on which existing overland flow works (see dictionary in schedule 9 for more information on the definition of 'existing overland flow works') with a capacity of greater than 20 megalitres are situated must give the chief executive notice of the works in the approved form.

Taking water using particular existing overland flow works authorised

Clause 52 authorises the owner of land on which existing overland flow works are situated to continue to take overland flow water using the works for a period of 1 year after the commencement of this plan (see clause 52(3) and dictionary in schedule 9 for more information on the definition of 'existing overland flow works'). This clause does not apply to existing works for the taking of only the overland flow water that may be taken under clause 50(2)(a) to (e).

Within this 1 year period the landholder must, under clause 51, give the chief executive notice of the existing overland flow works and any further information reasonably required by the chief executive about the works. Once this has occurred the landholder will be authorised to continue to take overland flow water using the notified works beyond the 1 year period.

As this clause does not apply to existing works for the taking of only the overland flow water that may be taken under clause 50(2)(a) to (e), an owner of land on which these particular existing overland flow works are situated is authorised to continue to take overland flow water using the works. However, under clause 51, the landholder is still required to notify the chief executive of these existing works if the capacity of the works is greater than 20 megalitres.

For example, an owner of land with existing works for the taking of overland flow water only for stock or domestic purposes, is authorised to continue to take overland flow water. However the owner is still required to notify the department of these existing works if the capacity of these works is greater than 20 megalitres. The notification process will provide baseline

information which will lead to better understanding of the water resources and uses within the catchment.

Granting water licences for using particular existing overland flow works

Clause 53 applies if the resource operations plan states a process for granting a water licence to replace an authority given under clause 52(2)(b) which allowed for the continued use of existing works to take overland flow water.

In following the process for granting a water licence, the chief executive must have regard to the average annual volume of overland flow water that could have been taken using the existing works immediately before the commencement of the plan. The chief executive must also consider the estimated annual volumes of overland flow water taken using the existing works during the period of not more than 10 years prior to the commencement of the plan.

Additionally, the chief executive may consider the extent to which the existing works allowed the taking or storage of other water under another authorisation. For example, the existing overland flow works may also allow the storage of water taken from a watercourse under a water licence which may affect the amount of overland flow water captured by the existing overland flow works.

In addition, the process may provide that the chief executive may require a certificate from a registered professional engineer of Queensland, which states information about the works including their capacity and rate at which water can be taken by the works.

Water licences to take overland flow water

Clause 54 outlines the elements that must be stated on a water licence to take overland flow water. The licence must state the purpose for which water may be taken, which must be either 'rural' or 'any'. The licence must also state at least one of the following—

- the maximum rate at which water may be taken under the licence;
- the daily volumetric limit for the licence;
- the nominal entitlement for the licence; and

- the maximum volume of water that may be stored under the licence.

Water licences to take overland flow water may also state any applicable conditions.

Relationship with Sustainable Planning Act 2009

Clause 55 states that works that allow the taking of overland flow water are assessable development for the *Sustainable Planning Act 2009*. This means that development approval is required under the relevant code for assessable development prior to constructing works that allow the taking of overland flow water in the plan area. Works that are assessable development require a development permit under the *Sustainable Planning Act 2009*.

Works that are self-assessable development do not require a development permit but must conform with the relevant self-assessable development code. Works for the taking of overland flow that are self-assessable for the *Sustainable Planning Act 2009* are—

- works for the taking of overland flow water only for stock or domestic purposes (and for no other purpose);
- works that allow the taking of overland flow water for any purpose which have a storage capacity of not more than 20 megalitres; and
- works for the taking of only the amount of overland flow water necessary to satisfy the requirements of an environmental authority, or a development permit for carrying out an environmentally relevant activity, other than for a mining or petroleum activity, under the *Environmental Protection Act 1994*.

The repair and maintenance of both existing overland flow works to which clause 52 applies and works constructed under a development permit, is neither assessable nor self-assessable development, if the repair or maintenance does not alter the design (including storage size) of the works.

Chapter 6 Monitoring and reporting requirements

Chapter 6 details the monitoring and reporting requirements for the plan. Monitoring and reporting are essential elements of a water resource plan's implementation because they provide a basis for measuring the effectiveness of the plan's strategies in achieving its outcomes.

Monitoring

Clause 56 details the water and natural ecosystems monitoring requirements for the plan. Detailed monitoring and reporting requirements will be specified in the resource operations plan.

The monitoring requirements include water monitoring, natural ecosystem monitoring, monitoring of groundwater developments and other monitoring required by the chief executive. Specific water monitoring requirements include monitoring for stream flows and the taking and diverting of water. Natural ecosystems monitoring requirements include the volume, frequency, duration and timing of stream flows and information on hydraulic habitat requirements of ecological assets in the plan area.

The monitoring requirements are to be achieved by programs administered by the chief executive or other relevant State agencies. The plan does not direct other State agencies to perform specific monitoring. However, if current monitoring programs undertaken by State agencies are relevant, this data may be used, eliminating any unnecessary duplication of monitoring.

Minister's report on plan—Act, s 53

Clause 57 specifies the requirements for the preparation of the Minister's report on the plan.

The intent of this report is to assess the effectiveness of the implementation of the plan in achieving the plan's outcomes.

The first report must be prepared for the financial year in which the resource operations plan commences. A subsequent report must be prepared for each financial year the plan is in force. Each report must be

prepared within 6 months after the end of the financial year to which the report relates.

If the Minister is satisfied about any of the matters outlined in clause 60 of this plan, as triggers for considering amending or replacing the plan, the report must include a consideration of the matters.

In accordance with section 1009 of the Act, the chief executive must make a copy of the report available for inspection or purchase by the public, during office hours on business days, at the head office or the appropriate regional office of the department.

Chapter 7 Implementing and amending this plan

Chapter 7 outlines the schedule for implementation of the plan, minor or stated amendments for the plan and triggers for the Minister to consider amending or replacing the plan.

Implementation schedule

Clause 58 states the proposed arrangements for implementing the plan. The clause states that within 1 year after the commencement of the plan it is proposed to prepare a resource operations plan in order to implement the water resource plan. The key elements of the resource operations plan will be to—

- amend existing water licences to be consistent with this plan; and
- establish a process to deal with unallocated water available for future water requirements in the plan area; and
- establish a process for granting water under water licences for taking overland flow water; and
- implement the monitoring requirements mentioned in chapter 6 of the plan.

Minor or stated amendment of plan—Act, s 57

Clause 59 states the types of amendment that may be made to the plan under section 57(b) of the Act. A minor amendment is one to correct a minor error or to make a change that is not a change of substance and a stated amendment is one that is listed in a water resource plan.

Clause 59 provides for the following amendments to be made to the plan including—

- an amendment or addition of a node;
- an amendment to subdivide a catchment area or subcatchment area;
- an amendment of the capacity mentioned in clause 50(2)(b);
- an amendment or addition of a monitoring or reporting requirement; and
- an amendment of clause 20 if notice of the amendment is published as if it were a moratorium notice under section 26 of the Act.

Amending or replacing plan

Clause 60 outlines situations where the Minister must consider amending the plan or preparing a new plan.

The Minister must consider amending or replacing the plan if satisfied, in relation to the plan's general outcomes, water entitlements in the plan area are not sufficient to meet water needs and that an economically viable and ecologically sustainable use for additional water exists. In considering whether water entitlements are sufficient, the Minister must have regard to a number of matters including the extent to which water is being taken under existing entitlements, the efficiency of water use, emerging water demands, water savings that may be made from improvements in water use efficiency or the use of water from other sources and the likely timeframe for additional water requirements.

Additionally, the Minister must consider amending or replacing the plan if satisfied that the plan's general ecological outcomes or specific ecological outcomes are not being achieved.

This clause ensures there is a mechanism for a possible amendment of the plan if a major change in circumstances related to water demand or environmental water needs arise.

Schedules

Plan area

Schedule 1 shows the area to which this plan applies and the location of the nodes (further described in schedule 3).

Catchment areas and subcatchment areas

Schedule 2 shows the boundaries for the catchment and subcatchment areas referred to in the plan.

Nodes

Schedule 3 lists the nodes referred to in the plan and a description of their location.

Environmental flow objectives

Schedule 4 states the environmental flow objectives for the plan. Part 1 categorises the flow objectives that apply at any point on a watercourse. Part 2 categorises the flow objectives that apply at the specific nodes described in schedule 3.

Total volumes for unallocated water

Schedule 5 tabulates the locations and available volumes of unallocated water. Part 1 tabulates the locations and available volumes of strategic unallocated water and part 2 tabulates the locations and available volumes of general unallocated water.

Water licence to replace local government authority

Schedule 6 states the continued authority to take water held by local government and the water licence which will replace the continued authority (see clause 38 of the plan).

Limitations on particular licences

Schedule 7 states the limitations that will be placed on particular water licences that may be granted under clause 39 and clause 40 if this plan.

Rates and pump sizes

Schedule 8 states the rates of take of water for various pump sizes. For each pump size stated the maximum rate is expressed in litres per second and the daily volumetric limit in megalitres per day. See clauses 44 and 45 for more information.

Dictionary

Schedule 9 contains the dictionary of defined terms used in the plan.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.

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