Queensland

Water Resource (Cooper Creek) Plan 2011

Explanatory Notes for SL 2011 No. 226

made under the

Water Act 2000

General outline

These explanatory notes are a 'plain English' version of the *Water Resource (Cooper Creek) Plan 2011* ('the plan'). They are intended to provide the reader with some explanation and background information on the sections in the plan.

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

Short title

Water Resource (Cooper Creek) Plan 2011.

Authorising law

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

Policy objectives and the reasons for them

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 Water Resource (Cooper Creek) Plan 2000 was released as a Water Management Plan prior to the commencement of the Act in February 2000. It was transitioned with some amendments under section 57 and section 1038 of the Act. The plan managed water in a watercourse, lake or spring.

Subordinate legislation, including water resource plans, must be replaced within a ten year timeframe under the *Statutory Instruments Act 1992* (section 54 (1)).

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. This plan has this objective to meet future water requirements, including the protection of natural ecosystems and security of supply to water users.

The plan area includes the following watercourses and their tributaries—

- Barcoo River
- Thomson River
- Darr River
- Alice River
- Landsborough Creek
- Towerhill Creek
- Torrens Creek

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 the 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.

Achievement of policy objectives

The plan provides for the allocation and sustainable management of surface water and 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 requirement; and
- regulating the taking of overland flow water.

By the fulfilment of these goals, the objectives of this plan will be achieved.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of the Act, which is to ensure the "sustainable management of water and other resources".

Inconsistency with policy objectives of other legislation

The regulation is consistent with policy objectives of other legislation, such as other State legislation relating to Wild Rivers.

Benefits and costs of implementation

Implementation of this plan will provide the benefits of a modernised water resource plan. These include provisions for reserves of unallocated water for future water needs, the conversion to volumetric entitlements, and

integration of management of water resources through the management of overland flow.

Consistency with fundamental legislative principles

The plan, which is 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, 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 *Cooper Creek Water Resource Plan Consultation Report*.

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 definitions for particular words used in the plan can be found.

Short title

Clause 1 specifies the short title to the subordinate legislation as the *Water Resource (Cooper Creek) Plan 2011*.

Purposes of plan

Clause 2 states the purpose 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, subcatchment areas for the plan, and the nodes mentioned in the plan. This chapter also states where information about the boundaries of the plan are held. The water to which the plan applies is stated in this part 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 following watercourses and their tributaries—

- Cooper Creek
- Barcoo River
- Thomson River
- Darr River
- Alice River
- Landsborough Creek
- Towerhill Creek
- Torrens Creek
- Cornish Creek
- Aramac Creek
- Vergemont Creek
- Powell Creek
- Kyabra Creek
- Whitula Creek
- Wilson River

- Warri Warri Creek
- Maneroo Creek
- Ravensbourne Creek
- Wooroolah Creek

Subcatchment areas

Clause 5 states that a map of the subcatchment areas in the plan area is shown in schedule 1. The use of subcatchment areas provides for more effective management and planning of water resources by focusing on the ecological and consumptive needs for smaller areas within the overall plan area. The subcatchment areas in the plan area are—

- Cooper Creek
- Thomson-Barcoo
- Upper Thomson

Information about areas

Clause 6 provides information for accessing further detail of the plan area boundaries which are held in digital electronic form at departmental offices where they can be inspected in detail.

Nodes

Clause 7 defines the nodes mentioned in the plan. Nodes are generally defined as specific locations on a watercourse within the plan area. Nodes can be used within the water resource plan and the resource operations plan where a definitive location or reference point is necessary. A map of the nodes in the plan area is shown in schedule 1 with further description in schedule 2.

Water to which plan applies

Clause 8 states that the plan applies to surface water as water in a watercourse, lake, or spring or as 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.

Declaration about watercourse—Act, s1006 (2)

Where it is demonstrated that subartesian water is hydraulically-linked to water in a water course, lake or spring, clause 9 of the plan declared that this water is to be managed as water in a watercourse.

An owner of land may take hydraulically-linked subartesian water under the land for stock or domestic purposes only without the requirement for a water licence.

Chapter 3 Outcomes for sustainable management of water

Chapter 3 states the 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
- social and economical outcomes

Outcomes for water in plan area

Clause 10 establishes that water is to be allocated and sustainably managed in a way that seeks to achieve a balance in the general, ecological and social and economic outcomes of the plan as seen in clause 11 to 13.

The term ***balance*** 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 for water in plan area

Clause 11 states the general outcomes for the allocation and sustainable management of water in the plan area. These outcomes give an overview of what the plan is expected to achieve through implementing the identified management strategies. The outcomes involve maintaining consistency with national and international obligations and agreements, such as the Lake Eyre Basin Intergovernmental Agreement, protecting natural ecosystem processes, protecting cultural values and to promote an improved understanding of ecosystem health impacts due to predicted climate change.

Ecological outcomes for water in plan area

Clause 12 states the general ecological outcomes for the plan area. The plan seeks to achieve these outcomes by maintaining natural flow regimes both in the plan area and the South Australian part of the Cooper Creek catchment, maintaining connectivity between waterholes and by maintaining variability of seasonality of flow patterns and minimising impacts on pool and waterhole habitats.

Social and economic outcomes for water in plan area

Clause 13 states the general social and economic outcomes for the allocation and sustainable management of water in the plan area. The plan seeks to achieve these outcomes which involve providing water for economic growth, urban and industrial uses, and existing water users and for projects of State or regional significance.

Chapter 4 Strategies for achieving outcomes

Chapter 4 sets out the strategies that will be implemented to achieve the plan's outcomes that are specified in chapter 3. Inclusion of these strategies meets the requirement of section 46 (1) (f) of the Act.

Part 1 Preliminary

Part 1 establishes that decisions made about the allocation or management of water cannot increase the allowable average volume of water taken in the plan area and indicates what the metering requirements for certain water entitlements in the plan area might be.

Decisions about taking water

Clause 14 states that the chief executive must not make any decisions about the allocation or management of water that would increase the average volume of water allowed to be taken in the plan area. This includes decisions about an application made but not dealt with before the commencement of this plan.

This does not include decisions by the chief executive made under the provisions of the water resource plan such as decisions on: water permits, reinstating or replacing an expired authorisation, taking overland flow under section 37, unallocated water or about a water licence mentioned in section 20.

This 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 15 states 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 that state a nominal entitlement. 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 recorded.

Metering 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. It 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 installation of meters in the plan area and other parts of Queensland is part of the State-wide metering program.

Part 2 Unallocated water

Part 2 deals with matters relating to unallocated water including the establishment of unallocated water reserves, the effects of projects that may be considered to be of regional significance, interim arrangements for applications about unallocated water and the process for dealing with unallocated water.

Establishing unallocated water reserves

Clause 16 specifies that unallocated water will be held as a general reserve, Indigenous reserve, strategic reserve, or town and community water reserve. The volumes specified are annual volumetric limits and include—

- Indigenous reserve of 200ML for a non-irrigation purpose for helping local Aboriginal people achieve their economic and social aspirations;
- general reserve of 200ML for non-irrigation purpose;
- strategic reserve of 1300ML for a project of State or regional significance; and
- town and community reserve of 500ML for community purposes or for town water supply.

Clause 16 states that unallocated water for the above reasons may be taken from a watercourse, lake or spring or from overland flow.

Water granted from the strategic reserve must only be granted for the life of the project and must be returned to the strategic water reserve on the

completion of the project. This allows water to be continually available for new and future projects which may only require water for a limited time.

A project of State significance means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

The right to take water under a water licence granted from the Indigenous reserves may be used by local Aboriginal people for economic purposes to help achieve their economic and social aspirations however to remain consistent with other reserves, cannot be used for irrigation purposes.

Should the project conclude, or the water licence no longer be required the water granted under the water licence is returned to the Indigenous reserve. This allows water to be continually available for new and future requirements which may only require water for a limited time. This also ensures that the water available under the Indigenous reserve remains for local Aboriginal people to help achieve economic and social aspirations and is not granted for other purposes (such as those suited to the general reserve or strategic reserve) if the water returns to the State.

Projects that may be considered to be of regional significance

Clause 17 states the factors the chief executive must consider in determining whether a project is of regional significance. These factors include, the plan outcomes set out in chapter 3, the economic and social impacts the project would have on the region, and the public interest and welfare of its people. Any other relevant factors can also be considered by the chief executive.

Despite this, to maintain consistency with other unallocated reserves under the Plan, the chief executive may not consider a project for irrigation to be a project of regional significance.

Interim arrangements for applications about unallocated water

Clause 18 sets out arrangements to deal with any applications that are received before a resource operations plan is in place. The clause states that an application for a water licence to be granted from unallocated water for a project of State or regional significance, for town and community water supply and for non-riparian stock or domestic use may be accepted and dealt with under the plan prior to the resource operations plan stating a

process for dealing with unallocated water. Community water supply includes non-commercial use of water by Aboriginal people for cultural and traditional uses.

In deciding an application about unallocated water for purposes of State or regional significance, town and community water supply, or non-riparian stock or domestic, the chief executive must consider the matters mentioned in section 19 (2) (a) to (g).

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

Where the chief executive approves an application made under this provision for community or local government, the volume granted will be sourced from the total volume of unallocated water identified as town and community water reserve.

Where the chief executive approves an application made under this provision for non-riparian stock or domestic use, the volume granted will be sourced from the total volume of unallocated water identified as general reserve under the plan.

Process for dealing with unallocated water

Clause 19 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 before providing additional water for consumptive use.

Any application by a local government for a water licence granted from the town and community reserve of unallocated water will also require a planning study which demonstrates a genuine need for the additional water.

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 Granting water entitlements other than entitlements to unallocated water

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 water licensing framework established under the Act.

Water licences to replace authorities

Clause 20 allows the chief executive to clarify historical entitlements and align them with the current authorisation regime under the Act. This clause states that the chief executive may under section 212 of the Act grant a water licence to take or interfere with water where there is an existing authority continued under section 1037 of the Act, or where an authority was issued under section 4 of the *Water Act 1926-1983*, or where historic permission was given to the State or local government to take or interfere with water.

Where the chief executive decides to grant a water licence to take water, the matters mentioned in the provisions specifying the nominal entitlement, maximum rate of take and daily volumetric limit must be considered.

Where an *existing authority* is in place, the owner may continue to use the works to take or interfere with the water until the chief executive issues a water licence under this section.

Granting of water permits

Clause 21 states that an application for a water permit to take water from a waterhole or lake listed in schedule 5 must include additional information about the total volume and current water level of the waterhole or lake for the chief executive to determine appropriate conditions.

Clause 21 also lists what the chief executive must consider when deciding an application for a water permit.

Part 4 Water licences to take water from watercourse, lake or spring

Part 4 contains two divisions that deal with water licences which applies to take or interference with water in a watercourse, lake or spring—

- form of water licences to take water from watercourse, lake or spring
- criteria for amending water entitlements to achieve plan outcomes

Division 1 Application of part

Clause 22 states that this part applies to a water licence to take water from a watercourse, lake or spring. It does not apply to water licences to take overland flow water.

Division 2 Form of water licence to take water

Elements of a water licence to take water

Clause 23 lists what must be stated on a water licence to take water from a watercourse, lake or spring.

Existing water licences are to be amended to include the elements listed in this section. Existing water licences for stock or domestic purposes only need to be amended to include a purpose and a nominal entitlement.

Restrictions on taking water from waterholes or lakes

Natural waterholes and lakes are recognised as important habitats and refuges for aquatic plants and animals and are often of significant cultural value to local Aboriginal people.

The chief executive will consider the impact of taking water on the ecological and cultural attributes of these features and, where necessary, set conditions to ensure they are maintained.

Clause 24 specifically deals with water licences. Temporary water permits are dealt with under clause 21.

Under Clause 24, if a new water licence, to take water granted from the unallocated water reserves is to be located on a protected waterhole or lake listed in schedule 5, then the chief executive must impose a condition prohibiting the taking of water from below the natural cease to flow level of the waterhole or lake.

For new water licences to take water granted from the unallocated water reserves located on any other waterhole, except for the purpose of stock or domestic, the chief executive must impose a condition on the water licence prohibiting take when the level of the waterhole or lake is lower than 0.5 metres below the natural cease to flow level.

However, these provisions do not apply to new water licences located on a waterhole listed in schedule 6, as these waterholes have been artificially augmented by the construction of weirs.

The provisions also do not apply to decisions about reinstating or replacing an expired authorisation, granting a licence in accordance with clause 20 or granting a licence for stock or domestic purposes if the take was in existence prior to 11 July 2008.

Division 3 Criteria for amending water licences to achieve plan outcomes

Clause 25 provides definitions for an ‘amended water licence’ and an ‘existing water licence’. These terms are used throughout division 3.

Amending the purpose stated on water licence held by the Commonwealth environmental water holder

Clause 26 states that a water licence held by the Commonwealth environmental water holder must have a purpose of ‘environment’.

Restrictions on amending licences

Clause 27 states that a water licence must not be amended to change the purpose to irrigation. A water licence which has a purpose of 'environment' can not be amended to another purpose.

Maximum rate for taking water

Clause 28 specifies how the maximum rate at which water may be taken under an amended water licence is to be determined. If a maximum rate of take is stated on the existing licence then that same rate will apply to the amended water licence.

Under clause 28 (1)(b), if a maximum rate of take is not stated on the licence but the associated development permit states a pump size, other than an axial flow pump size, that is listed in Schedule 8, column 1, then the rate stated in schedule 8, column 2 applies.

Under clause 28 (1)(c), if a maximum rate of take is not stated on the licence but the associated development permit states an axial flow pump size that is listed in Schedule 8, column 1, then the rate stated in schedule 8, column 4 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. If the pump size falls between the sizes mentioned in schedule 8, column 1, then the maximum rate is to be interpolated between those stated in schedule 8.

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 can be taken under the authorisation.

Daily volumetric limit for taking water

Clause 29 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 29 (1)(b) states that where a daily volumetric limit is not stated on the existing licence but a maximum rate of take is stated on the licence, the daily volumetric limit is calculated by multiplying the stated maximum rate of take by 0.0864.

Clause 29 (1)(c) and (d) states that where a daily volumetric limit 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 daily limit stated in schedule 8 applies.

If both a daily volumetric limit and pump size is stated on an authorisation, clause 29 (1) (e) states that the same daily volumetric limit will apply.

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 28.

Nominal entitlements for taking water

Clause 30 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. This section also facilitates the conversion of area based irrigation licences to volumetric entitlements.

If the 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 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 16.

If the 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 maximum rate of take, the conditions under which water may be taken, the annual volume of water recorded to have been taken, annual volume of water estimated to have been taken and the efficiency of the water use.

Conditions for water licences

Clause 31 states that in deciding the conditions under which water may be taken, the chief executive must consider the terms or conditions stated on the water licence and any existing water sharing arrangements that relate to the water licence, for instance local management rules for water restrictions.

If an authorisation is for water harvesting or the water is from water harvesting take and stored in works that allow overland water take, then the chief executive is to impose a condition on the water licence to ensure there is no increase in the volume of overland flow water that the storage may take.

Storing water taken under a water licence

Under Clause 32, an existing water licence with the purpose of 'irrigation' will be amended to include a "no-store" condition to prohibit water harvesting and long term storage of water.

However, it specifies that the "no-store" condition does not apply to the temporary storage of water in a balancing storage provided the volume stored is limited to an amount necessary for the efficient operation of the irrigation development. The annual volumetric limit stated on the water licence is also considered in determining appropriate storage volume for a balancing storage. The clause places upper limits on these balancing storages for irrigation at 30 ML. New balancing storages for these purposes will not be able to take overland flow.

Clause 32 specifies that a water licence with a "no-store" condition is not to be amended to remove this condition.

Part 5 Interference with water in a watercourse, lake or spring

Part 5 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. The section does not deal with interference by diverting the course of flow.

Application of pt 5

Clause 33 states that part 5 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 increase or interfere with water may only be granted if the proposed interference is to store water to be taken under an authorisation for stock or domestic purposes, to store water associated with town water supply authorisations, or if the application is made to provide a pumping pool.

Water licences will not be granted where the proposed works are to be located on a protected watercourse listed in Schedule 4, other than for impounding water associated with an authorisation for the purpose of town water supply.

New in-stream water storages, other than those associated with authorisations for town water supply purposes are limited to a maximum storage of 200ML. The total increase of new in-stream capacity over the life of the water resource plan is also limited by the capacities listed in Schedule 3.

To facilitate the authorisation of pre-existing works to interfere with water by impounding water, the storage limitations and prohibition on protected watercourses does not apply to storages that were in existence immediately before 1 May 1998. The works associated with these existing in-stream works are dealt with further in clause 40.

This clause also states what must be considered by the chief executive when deciding an application.

Interference with water for the provision of a pumping pool

Clause 35 applies if an application to interfere with water by impounding flow is to provide a pumping pool to enable water to be taken under an authorisation.

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, 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 cultural and ecological values of watercourses, waterholes, lakes or springs 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 or a sump.

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, situations where the taking of water using particular existing overland flow works is authorised, the process for granting water licences, and the relationship between works that allows the taking of overland flow water and the *Sustainable Planning Act 2009*.

Limitation on taking overland flow water—Act, s20 (6)

Section 20(6) of the Act allows take of overland flow unless regulated through a moratorium, water resource plan or wild rivers declaration. Clause 36 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. However, regardless of section 20(6) of the Act, section 20(8) of the Act allows a constructing authority to take water without an entitlement. The water resource plan may require the works that take overland flow under this provision to be assessable development.

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, other than irrigation, if the works for the taking of overland flow water have a capacity of not more that 10 megalitres; or

- under a water licence granted from an unallocated water reserve that authorises the take; 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 authorising existing or reconfigured works (clause 37).

Use of existing or reconfigured works to take overland flow water authorised

Clause 37 authorises the owner of land on which existing overland flow works to continue to take overland flow water using the works. Owners may also continue to use reconfigured existing overland flow works provided there is not an increase of the average annual volume taken (see dictionary in schedule 9 for more information on the definition of 'existing overland flow works').

Continued take from the overland flow works is permitted for a period of 1 year after the commencement of this plan.

Within this 1 year period the landholder must, under clause 37, 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. This authorisation will cease to apply if the owner is granted a water licence relating to the overland flow works.

The owner may not increase the average annual volume of overland flow water taken using these works.

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. Notification forms are available form the department.

Clause 37 does not apply to existing works for the taking of only the overland flow water that may be taken under clause 36 (2) (a) to (e).

Granting water licences for using existing works or reconfiguration of existing works

Clause 38 applies if an owner of land has complied with clause 37 to continue taking overland flow water using existing overland flow works, however, the chief executive is satisfied that the average annual volume of overland flow water taken using existing overland flow works has increased above what could have been taken previous to commencement of this plan.

Clause 38 states that the chief executive may consider granting a water licence under section 212 of the Act, to replace the authorisation under clause 37 of this plan and impose a condition on that licence to ensure that the average annual volume of overland flow water taken using the existing overland flow works is not more than what could have been taken previously to this plan.

Interim arrangement for taking overland flow water

A resource operations plan will state specific rules on how to deal with applications to take overland flow water, and clause 39 provides rules to cover the period between when this water resource plan was approved and the approval of a resource operations plan. This clause states proposed new works that take overland flow water must not be started. Completed or partly completed works must not be raised, enlarged or deepened, until the resource operations plan is approved.

This clause further states which applications will not be accepted until the approval of the resource operation plan. The clause allows for some exceptions, remaining consistent with clause 36.

Part 7 Relationship with Sustainable Planning Act 2009

Works for taking overland flow water

Clause 40 states that works that allow the taking of overland flow water are assessable development for the *Sustainable Planning Act 2009*.

This clause also states that 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 water that are self-assessable for the *Sustainable Planning Act 2009* include—

- 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 10 megalitres; and
- works for the taking of only the amount of overland flow water necessary to satisfy the requirements of an environmentally relevant activity, other than for a mining or petroleum activity, under the *Environmental Protection Act 1994*.

All other works that allow the taking of overland flow are assessable development. 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 take overland flow water under section 20(8) of the Act are assessable development unless the water resource plan specifies otherwise.

The repair and maintenance of both existing overland flow works to which clause 35 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.

Particular works for interfering with water

Clause 41 deals with existing works for interfering with water that store

water taken under an authorisation for stock or domestic purposes and were constructed prior to 1 May 1998. The clause states that these existing works are self-assessable development for the *Sustainable Planning Regulation 2009* and must comply with a self-assessable code. The interference of water under these works will still require a water licence under the Act with the process outlined in Clause 34.

Chapter 5 Monitoring and reporting requirements

Chapter 5 sets out the monitoring requirements of the plan and the reporting requirements set out in section 53 of the Act.

Monitoring requirements

Clause 42 details the water monitoring requirements for the plan. Detailed monitoring and reporting requirements will be specified in the resource operations plan.

Specific water monitoring requirements include monitoring for stream flows and the taking and diverting of water.

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 43 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 47 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 6 Implementing and amending this plan

Chapter 6 outlines the schedule for implementation of the plan, amendment of plan, minor or stated amendment of plan and triggers for the Minister to consider amending or replacing the plan.

Implementing this plan

Clause 44 states the proposed arrangement 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—

- establish a process to deal with unallocated water for future water requirements in the plan area; and
- mechanisms for water to be purchased for environmental purposes; and
- establish water licence transfer rules and relocation zones to facilitate local movement of water;
- establish seasonal water assignment rules; and
- establish a process for granting or amending water licences to take overland flow water; and
- implement the monitoring requirements mentioned in chapter 5.

Amendment of plan—Act, s 56(4)(b)

Clause 45 states the types of amendment that may be made to the plan under section 56 (4)(b) of the Act. This section of the Act does not require the full planning process to be followed, however still requires a public notice advising of the availability of the draft amended plan upon which submissions will be sought. After considering all properly made submissions, the Minister may decide to proceed or not with the preparation of a final plan.

Clause 45 provides for the following amendments to be made to the plan including—

- the addition or removal of a watercourse from schedule 4;
- the addition or removal of a waterhole or lake from schedule 5;
- the addition or removal of a waterhole from schedule 6.

Minor or stated amendment of plan—Act, s 57(b)

Clause 46 states the types of amendment that may be made to the plan under section 57 (b) of the Act. Plans amended under this section of the Act proceed to the Governor in Council for approval without requiring the release of a draft amended plan upon which submissions would have been sought. 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 46 provides for the following amendments to be made to the plan including—

- an amendment or addition of a node;
- an amendment to subdivide a subcatchment area;
- an amendment or addition of a monitoring or reporting requirement mentioned in chapter 5.

Amending or replacing plan

Clause 47 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. 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, specific ecological outcomes, or social and economic 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.

Chapter 7 Repeal of the Water Resource (Cooper Creek) Plan 2000

Clause 48 states that the previous Water Resource (Cooper Creek) Plan 2000 is repealed as it has been replaced by the *Water Resource (Cooper Creek) Plan 2011*. In preparing a water resource plan for any part of Queensland, there can only be one water resource plan in effect at any one time for the part.

Schedules

Plan area and subcatchment areas

Schedule 1 shows the area to which this plan applies and shows the boundaries for the subcatchments referred to in the plan.

Nodes

Schedule 2 shows the location coordinates of nodes referred to in the plan.

This schedule also lists the nodes and their location as Adopted Middle Thread Distance (AMTD), which is the distance to the node in kilometres from the mouth of a river, or junction with a main watercourse, measured along the middle of the watercourse (see clause 7).

Allowable total increase for in-stream water storage capacity for subcatchments

Schedule 3 shows allowable total increase for in-stream water storage capacity to which clause 34 (2)(a) applies for the 3 subcatchments—

- Cooper Creek
- Thomson-Barcoo
- Upper Thomson

Protected watercourses

Schedule 4 lists the protected watercourses referred to in the plan and the subcatchments that they are found in (see clause 34 (2) (c)).

Protected waterholes and lakes

Schedule 5 lists the protected waterholes and lakes referred to in the plan and the subcatchments they exist in (see clauses 21 (2) and 24 (3) and 24 (4)).

Augmented waterholes

Schedule 6 lists the augmented waterholes referred to in the plan and the subcatchments they exist in (see clause 24 (6)).

Map of protected watercourses, waterholes and lakes, and augmented waterholes

Schedule 7 part 1 shows a map of protected watercourses, waterholes and lakes and augmented waterholes in the northern part of the plan area. Schedule 7 part 2 shows a map of protected watercourses, waterholes and lakes and augmented waterholes in the southern part of the plan area (see clauses 21 (2), 24 (3) and 24 (5) and schedules 4, 5 and 6).

Rates and pump sizes

Schedule 8 states the rates, volumetric limits and pump sizes for determining details to be stated on water licences, in accordance with clause 28 (1) (b), 28 (1) (c), 29 (1) (b) and 29 (1) (c) of the plan, as—

- maximum rate of take of water in litres per second; and
- the daily volumetric limit in Megalitres per day according to pump sizes; and
- maximum rate of take of water in litres per second for an axial flow pump; and
- the daily volumetric limit in Megalitres per day for an axial flow pump.

Dictionary

Schedule 9 is a 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.