

Water Amendment Plan (Burdekin Basin) 2019

Explanatory notes for SL 2019 No. 120

made under the

Water Act 2000

General Outline

Short title

Water Amendment Plan (Burdekin Basin) 2019

Authorising law

Sections 42, 44 to 48, 71, 72, 74 to 76 and 241 of the *Water Act 2000* (the Act)

Policy objectives and the reasons for them

Section 50 of the *Water Act 2000* (the Act) provides for the Minister to amend a water plan for any part of Queensland to advance the sustainable management of water.

The objective of the *Water Amendment Plan (Burdekin Basin) 2019* (the amendment plan) is to provide a framework for the allocation and sustainable management of surface water and overland flow water in particular parts of the plan area. This includes the subcatchment areas upstream of Burdekin Falls Dam, namely Belyando Suttor subcatchment area (subcatchment area E), Cape Campaspe subcatchment area (subcatchment area F) and Upper Burdekin subcatchment area (subcatchment area G).

Achievement of policy objectives

The amendment plan will provide:

- a framework for the conversion of water licences to water allocations in priority areas of subcatchment area F and subcatchment area G;
- a framework to amend water licences in subcatchment area E, subcatchment area F and subcatchment area G to specify clearer licence terms and conditions;

- landholders in areas outside water supply schemes with the ability to take water from a watercourse, lake or spring without an entitlement for non-riparian stock and domestic purposes; and
- landholders in areas outside water supply schemes with the ability to take up to five megalitres of water per annum in subcatchment area E, subcatchment area F and subcatchment area G without an entitlement for prescribed activities, such as for washing down agricultural equipment.

Consistency with policy objectives of authorising law

The amendment plan is consistent with the main objectives of the Act, which is to provide a framework for the sustainable management of Queensland's water resources.

Inconsistency with policy objectives of other legislation

The amendment plan is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

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

Benefits and costs of implementation

Implementation of the amendment plan will provide the following benefits, which include:

- the sustainable management of surface water, including water underneath a watercourse declared to be surface water and overland flow water;
- expanding the water market through the conversion of water licences to tradable water allocations in subcatchment area F and subcatchment area G;
- enabling a process whereby water users in particular areas of subcatchment area E can apply to the chief executive to seasonally assign or permanently relocate a water licence;
- allowing an additional 50 000 ML to be traded from the Burdekin Falls Dam ponded area to meet emerging water demands;
- granting three new water licences to recognise the historical take or interference with water that existing prior to the *Water Resource (Burdekin Basin) Plan 2007*;
- extending the notification period for water users to notify the chief executive that they have existing works for taking overland flow water, to allow water users who have invested in such works to continue to use those works for taking overland flow water;

- a framework to amend water licences in the subcatchment area E, subcatchment area F and subcatchment area G to streamline and simplify licence terms and conditions; and
- access to water without the requirement for an entitlement, to allow landholders in areas outside water supply scheme areas to take water for non-riparian stock and domestic use, and to take up to five megalitres of water per annum in subcatchment area E, subcatchment area F and subcatchment area G for prescribed activities, such as for washing down agricultural equipment.

The majority of the costs for implementing the amendment plan are currently within existing budgets. An implementation plan has been developed by the chief executive for activities needed to implement the amendment plan.

For some of the implementation tasks the workload can be predicted and existing resources realigned as the tasks can be considered “business as usual”. However, for some of the tasks, such as measuring of take (metering) and implementing the monitoring and reporting strategy, the resourcing requirements cannot be predicted as state wide policy questions are yet to be resolved. Therefore, there may be a need to realign resources within the Department of Natural Resources, Mines and Energy once resource requirements are confirmed.

Consistency with fundamental legislative principles

As subordinate legislation the amendment plan is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Agencies, key stakeholders and water users affected by the amendment plan have been consulted. Section 46 of the Act details the requirements for publishing the draft amendment plan and details on how submissions may be made.

The community in areas affected by the amendment plan have been consulted throughout all stages of the amendment process via:

- the Upper Burdekin Basin Water Consultation Group;
- public information sessions;
- meetings with key stakeholder groups including the local government;
- public submissions on the draft amendment plan; and
- discussions with individuals about issues raised during public information sessions or in submissions.

A public notice was published in local papers and online stating the release of the draft amendment plan and where further information could be located. Public submissions were invited from entitlement holders and stakeholders. Public information sessions were held at Charters Towers and Alpha to explain the provisions of the draft amendment plan. Targeted information sessions were held in Belyando Crossing and Greenvale.

The intent of the draft amendment plan was generally well received and no significant changes were required as a result of the consultation. Further information about the community consultation process and the outcomes of community consultation are outlined in a separate document, the Water Amendment Plan (Burdekin Basin) 2019 Minister's Considerations Report, which is publicly available on the Department of Natural Resources, Mines and Energy website.

On 19 December 2016 the Queensland Productivity Commission (QPC) advised the department that where the process to make or amend water plans is followed as per the provisions in the Act, the plans will have undergone an extensive impact assessment process and QPC therefore considers that, no further assessment is required under the Queensland Government Guide to Better Regulation.

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Notes on provisions

Amendments to Part 1: Preliminary

Clause 3 will amend Part 1 of the Water Plan (Burdekin Basin) Plan 2007 (the water plan) to relocate the definition of existing overland flow works for the plan from the dictionary in Schedule 10. Some amendments to the definition have been made to clarify the meaning, particularly in relation to the Act sections that were in effect at the time of the Moratorium Notice. These have since been repealed from the Act.

Amendments to Part 2: Plan area, water to which plan applies and other matters

Clauses 5 and 6 will amend Part 2 of the water plan to incorporate new water allocation zones for the Upper Burdekin Water Management Area (subcatchment area G) and Cape Campaspe Water Management Area (subcatchment area F) for water allocations established under the water plan amendment. This water plan amendment will also amend the water plan to state water licence zones for water licences located in particular areas of the Belyando Suttor subcatchment area (subcatchment area E).

Clause 5 will also amend Part 2 to specify that water in an aquifer underneath a watercourse which is hydraulically connected to surface water in the watercourse, will be defined as surface water.

Other amendments have been made under clause 5 to better clarify the parts of the plan area managed by the water plan.

Amendments to Part 4: Performance indicators and objectives

Clause 8 will replace section 17 of the water plan to state a new water allocation security objective for water allocations in the subcatchment area F and subcatchment area G using the annual volume probability as the performance indicator.

Amendments to Part 5: Strategies for achieving outcomes

Divisions 1A-1D

Clauses 10 to 20 inserts new divisions 1A to 1D and relevant sections into the water plan. This is part of a restructure of the water plan, consolidating provisions relating to the management of and dealings with water licences into one part of the plan.

Clause 16 inserts new section 26B to enable the chief executive to accept and decide on an application for particular water licence dealings made under the Act. This clause also clarifies the types of applications the chief executive may not accept.

Clause 18 inserts new section 27A. This section states the criteria for deciding an application for a water licence dealing permitted to be accepted under the new section 26B, made under section 130 of the Act to change the location of a water licence. The criteria requires the point of take for the water licence being from a water licence zone, and can only be granted if the chief executive is satisfied that the dealing is permitted under the water management protocol.

Clause 19 inserts new section 27C which states that an application, other than an application to which section 27A applies, is inconsistent with this plan and must be refused in accordance with section 129 of the Act. This clause complements section 26B by removing doubt that any application made for a water licence under section 26B will be inconsistent with the plan if it were to be accepted.

Division 1E

Clause 22 inserts a new section 28A into the water plan to provide for the chief executive to grant new water licences under a water entitlement notice to particular land owners for taking or interfering with surface water.

Division 3

Clause 24 inserts new sections 34 and 35 into the water plan, prescribing particular limitations on taking water for a prescribed activity for section 101(1) of the Act, and for taking water for stock or domestic purposes for section 103(a) of the Act.

Clause 24 states that a person in subcatchment area E, subcatchment area F or subcatchment area G may only take up to 5ML per water year for an activity prescribed under the *Water Regulation 2016*.

Clause 24 also states that a person may not take water for a stock or domestic purpose from the Burdekin Haughton Water Supply Scheme or the Bowen Broken Water Supply Scheme unless the works used for taking stock or domestic water were in existence before the commencement of this plan. Water in any other part of the plan area may be taken for section 103(a) of the Act in any way.

Division 6

Clause 26 will replace sections 54-56 of the water plan to establish the framework for, under 43(2)(g) of the Act, the arrangements and process for converting particular water licences to water allocations under a water entitlement notice.

The water licences to be converted to water allocations under a water entitlement notice are water licences which take water from a location within the Upper Burdekin Water Management Area or the Cape Campaspe Water Management Area.

The amendment to section 56 aligns the matters stated on a water allocation with the new requirements of the Act for stating a maximum rate on the allocation in megalitres per day. In addition, section 56 has been amended to remove the requirement to state, in particular circumstances, a purpose of “rural” on a water allocation. All water allocations relevant to this division will state a purpose of “any” instead.

Clause 29 will omit section 65 from the water plan for the requirement for a water allocation to state a per-second rate.

Clause 30 amends section 66 of the water plan to enable the chief executive to determine a maximum rate for each water allocation by considering any existing rate stated on the water licence being converted if the rate is stated in litres per second.

Clause 33 amends section 69 of the water plan to enable water allocation security objectives for new water allocation groups to be stated in schedule 8A, column 2. In particular, this enables new water allocation security objectives to be stated for the new water allocations in subcatchment area F and subcatchment area G that will be established through this water amendment plan.

Division 7

Clause 37 will omit section 73 from the water plan for the requirement for a water licence to state a per-second rate. However, clause 37 will only be enacted on water licences being amended under a water entitlement notice.

Division 8

Clause 41 will amend section 79 of the water plan to remove reference to contaminated agricultural run-off water. Section 101(3) of the Act states that an alteration or limitation in a water planning instrument cannot prevent a person from taking overland flow water that is contaminated agricultural run-off, to the extent the taking is necessary to comply with an obligation on the person under the *Environmental Protection Act 1994*.

Therefore, because a planning instrument cannot limit overland flow capture for this purpose, the water plan no longer needs to authorise the take of overland flow water that is contaminated agricultural run-off. This amendment ensures that water taken for this purpose is authorised thereby helping to deliver water quality outcomes for the basin.

Clause 42 will amend section 80 of the water plan to define existing overland flow works to be overland flow works that are in existence on the day this water amendment plan commences. This amendment supersedes the previous definition of existing overland flow works.

Amendments to Part 7: Amending this plan

Clause 50 inserts a new section 86 into the water plan to state that a water management protocol must be prepared for the plan area, and it must address the matters stated in subsection (2).

Amendments to Schedules

Amendment to schedule 2A

Clause 51 will insert new schedule 2A to show the locations of the new water management areas.

Amendment to schedule 2B

Clause 52 will insert new schedules 2B and 2C to show the locations of the new water allocation zones and water licence zones respectively.

Amendment to schedule 6

Clause 54 will amend schedule 6 to state the new water allocation security objectives for new water allocations in subcatchment area F (stated as a water allocation security objective for water allocation group F1 or F2) and in subcatchment area G (stated as a water allocation security objective for water allocation group G1, G2, G3 or G4).

Amendment to schedule 8

Clause 55 will amend schedule 8 whereas Clause 56 will insert new schedule 8A to state the new water allocation groups for new water allocations in subcatchment area F (stated as water allocation group F1 or F2) and subcatchment area G (stated as water allocation group G1, G2, G3 or G4).

Other amendments made to the water plan

In addition to the previously mentioned amendments made to parts 2, 4 and 5 of the water plan, a number of other amendments have been made to the water plan under this amendment plan. These are amendments that are not of substance and include:

- reordering and renumbering of particular sections of the water plan as a result of other amendments to the water plan;
- insertion of new and amendment of sections to enhance clarity and readability of particular parts of the water plan;
- the amendment of maps to correct minor errors;
- the amendment of the dictionary as a result of other amendments made to the water plan; and
- removal of words no longer relevant for the plan due to changes to the Act.