



Queensland

# Water Resource (Barron) Amendment Plan (No. 1) 2009

## Subordinate Legislation 2009 No. 266

made under the

*Water Act 2000*

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[s 1]

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**1 Short title**

This water resource plan may be cited as the *Water Resource (Barron) Amendment Plan (No. 1) 2009*.

**2 Plan amended**

This water resource plan amends the *Water Resource (Barron) Plan 2002*.

**3 Insertion of new s 7A**

After section 7—

*insert—*

**‘7A Water management area**

‘The plan area is a water management area called the Barron Water Management Area.’.

**4 Amendment of s 19 (Performance indicators for water allocation security objectives)**

Section 19(b)(ii)—

*insert—*

‘(D) annual volume probability.’.

**5 Omission of pt 5, div 4 (Granting water entitlements)**

Part 5, division 4—

*omit.*

**6 Amendment of s 31 (Application of div 5)**

Section 31(c)—

*omit.*

---

**7 Replacement of s 33 (Purpose to be stated on water allocation)**

Section 33—

*omit, insert—***‘33 Purpose to be stated on water allocation**

‘The purpose stated on a water allocation must be—

- (a) if the purpose stated on the authorisation is stock, domestic, irrigation, stock intensive, agriculture, dairy, water harvesting, aquaculture or a similar purpose—‘rural’; or
- (b) if the purpose stated on the authorisation is distribution loss—‘distribution loss’; or
- (c) otherwise—‘any’.

**8 Replacement of s 37 (Volume of unsupplemented water)**

Section 37—

*omit, insert—***‘37 Elements of water allocation to take unsupplemented water**

- ‘(1) A water allocation to take unsupplemented water must state the following—
  - (a) the location from which water may be taken under the allocation;
  - (b) the purpose for which water may be taken under the allocation;
  - (c) the nominal volume for the allocation;
  - (d) the annual volumetric limit for the allocation;
  - (e) for a water allocation to take unsupplemented water in subcatchment area C—the seasonal volumetric limit for the allocation;
  - (f) the daily volumetric limit for the allocation;

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- (g) the maximum rate at which water may be taken under the allocation;
  - (h) the flow conditions under which water may be taken;
  - (i) the water allocation group to which the allocation belongs.
- ‘(2) A water allocation to take unsupplemented water may also state the monthly volumetric limit for the allocation.’.

## **9 Amendment of s 39 (Annual volumetric limit for unsupplemented water)**

(1) Section 39, heading, ‘for unsupplemented water’—  
*omit.*

(2) Section 39(b)—  
*omit, insert—*

‘(b) for an authorisation that states the area that may be irrigated—the volume, expressed in megalitres, calculated by multiplying the area, in hectares, by 10; and’.

## **10 Insertion of new s 39A**

After section 39—  
*insert—*

### **‘39A Seasonal volumetric limit**

‘The seasonal volumetric limit for a water allocation to take unsupplemented water in subcatchment area C is—

- (a) for an authorisation to which section 39(a) or (c) applies—the annual volumetric limit for the authorisation; or
- (b) for an authorisation to which section 39(b) applies—0.66 multiplied by the annual volumetric limit for the authorisation.’.

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**11 Insertion of new s 40A**

After section 40—

*insert—*

**‘40A Daily volumetric limit**

- ‘(1) The daily volumetric limit for a water allocation to take unsupplemented water is—
- (a) for an authorisation that states the volume of water that may be taken in a day—the stated volume; and
  - (b) for an authorisation that does not state a volume that may be taken in a day but for which a related development permit—
    - (i) states a pump size mentioned in schedule 8, column 1—the daily volumetric limit stated in schedule 8, column 3 for the pump size; or
    - (ii) states a pump size other than a pump size mentioned in schedule 8, column 1—the daily volumetric limit decided by the chief executive having regard to the daily volumetric limits stated for similar pump sizes in schedule 8, column 3; and
  - (c) for another authorisation—the daily volumetric limit decided by the chief executive having regard to—
    - (i) the type of authorisation; and
    - (ii) an estimate or measurement of the rate at which water can be taken under the authorisation.
- ‘(2) However, for subsection (1)(b), if the authorisation holder satisfies the chief executive that the water taking capacity of the pump is different from the daily volumetric limit decided under the subsection, the daily volumetric limit is the volume decided by the chief executive having regard to the following—
- (a) the conditions under which the water may be taken under the authorisation;

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- (b) the water taking capacity of the pump to which the development permit relates (the *existing pump*) under normal operating conditions;
  - (c) the irrigation or water distribution system related to the existing pump during the period of not more than 10 years immediately before the commencement of this section;
  - (d) the efficiency of the water use associated with the irrigation or water distribution system mentioned in paragraph (c).
- ‘(3) The chief executive must ensure the daily volumetric limit for a water allocation is not more than the total volume that could be taken in a day at the maximum rate decided for the allocation under section 41.’.

## **12 Amendment of s 43 (Water allocation groups for unsupplemented water allocations)**

- (1) Section 43, heading, ‘for unsupplemented water allocations’—  
*omit.*
- (2) Section 43(b)—  
*omit, insert—*
  - ‘(b) for an authorisation that states a purpose or similar purpose mentioned in section 33(a), other than water harvesting, or a purpose mentioned in section 33(c)—the class CB water allocation group; and’.

## **13 Replacement of s 44 (Volume of unsupplemented water)**

Section 44—  
*omit, insert—*

## **‘44 Elements of water licence**

- ‘(1) A water licence to take unsupplemented water must state each of the following—



- 
- (a) the location from which water may be taken under the licence;
  - (b) the purpose for which water may be taken under the licence;
  - (c) the nominal entitlement for the licence;
  - (d) for a water licence to take water in subcatchment area C or H—the seasonal volumetric limit for the licence;
  - (e) the daily volumetric limit for the licence;
  - (f) the maximum rate at which water may be taken under the licence;
  - (g) if a condition applies to the licence, including, for example, a flow condition under which water may be taken or a condition about storing water taken under the licence—the condition.
- ‘(2) A water licence to take unsupplemented water may also state the monthly volumetric limit for the licence.

#### **‘44A Purpose to be stated on water licence**

- ‘(1) The purpose to be stated on a water licence to take unsupplemented water that replaces an existing licence must be—
- (a) if the purpose stated on the existing licence is stock or domestic—‘stock and domestic’; or
  - (b) if the purpose stated on the existing licence is irrigation, stock intensive, agriculture, dairy, water harvesting, aquaculture or a similar purpose—‘rural’; or
  - (c) otherwise—‘any’.
- ‘(2) In this section—
- existing licence* means a water licence to take unsupplemented water in force immediately before the commencement of this section.’

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**14 Amendment of s 45 (Annual volumetric limit for unsupplemented water)**

(1) Section 45, heading—

*omit, insert—*

**‘Nominal entitlement’.**

(2) Section 45(1)—

*omit, insert—*

‘(1) Subsection (2) states the nominal entitlement for a water licence to take unsupplemented water.’.

(3) Section 45(2), ‘annual volumetric limit’—

*omit, insert—*

‘nominal entitlement’.

(4) Section 45(2)(a) and (c), ‘or authority’—

*omit.*

(5) Section 45(2)(b)(ii)—

*renumber as section 45(2)(b)(iii).*

(6) Section 45(2)(b)—

*insert—*

‘(ii) for subcatchment area C or H—10; and’.

**15 Insertion of new ss 45A–45C**

After section 45—

*insert—*

**‘45A Seasonal volumetric limit**

‘The seasonal volumetric limit for a water licence to take unsupplemented water in subcatchment area C or H is—

(a) if section 45(2)(a) or (c) applies to the licence—the nominal entitlement for the licence; or

(b) if section 45(2)(b) applies to the licence—0.66 multiplied by the nominal entitlement for the licence.

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**‘45B Monthly volumetric limit**

‘In deciding monthly volumetric limits for a water licence to take unsupplemented water, the chief executive must have regard to—

- (a) the local availability of water in each month; and
- (b) the conditions under which water may be taken under the licence; and
- (c) the volumes of water estimated by the chief executive to have been taken under the licence during the period of not more than 10 years immediately before the commencement of this section; and
- (d) the simulated mean annual diversion for the licence; and
- (e) the efficiency of the use of the water mentioned in paragraph (c).

**‘45C Daily volumetric limit**

‘(1) The daily volumetric limit for a water licence to take unsupplemented water is—

- (a) for a licence that states the volume of water that may be taken in a day—the stated volume; and
- (b) for a licence that does not state a volume that may be taken in a day but for which a related development permit—
  - (i) states a pump size mentioned in schedule 8, column 1—the daily volumetric limit stated in schedule 8, column 3 for the pump size; or
  - (ii) states a pump size other than a pump size mentioned in schedule 8, column 1—the daily volumetric limit decided by the chief executive having regard to the daily volumetric limits stated for similar pump sizes in schedule 8, column 3; and
- (c) for another licence—the daily volumetric limit decided by the chief executive having regard to—

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- (i) the type of licence; and
  - (ii) the rate or estimated rate at which water can be taken under the licence.
- ‘(2) However, for subsection (1)(b), if the licence holder satisfies the chief executive that the water taking capacity of the pump is different from the daily volumetric limit decided under the subsection, the daily volumetric limit is the volume decided by the chief executive having regard to the following—
  - (a) the conditions under which water may be taken under the licence;
  - (b) the water taking capacity of the pump to which the development permit relates (the *existing pump*) under normal operating conditions;
  - (c) the irrigation or water distribution system related to the existing pump during the period of not more than 10 years immediately before the commencement of this section;
  - (d) the efficiency of the water use associated with the irrigation or water distribution system mentioned in paragraph (c).
- ‘(3) The chief executive must ensure the daily volumetric limit for a water licence is not more than the total volume that could be taken in a day at the maximum rate decided for the licence under section 46.’

**16 Replacement of pt 6 (Strategies for achieving outcomes (subartesian water))**

Part 6—

*omit, insert—*



**‘50 Limitation on taking water—Act, s 20(6)**

‘A person may not take subartesian water in the Atherton Subartesian Area or the Cairns Northern Beaches Subartesian Area other than—

- (a) for stock or domestic purposes; or
- (b) under a water licence or water permit.

**‘51 Relationship with Integrated Planning Act 1997**

‘(1) The following works for taking subartesian water in the Atherton Subartesian Area or the Cairns Northern Beaches Subartesian Area are self-assessable development for the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item (1)(b)(iii)—

- (a) works for taking subartesian water for stock or domestic purposes;
- (b) works that are a monitoring bore.

‘(2) Works, other than the works mentioned in subsection (1), for taking or interfering with subartesian water in the Atherton Subartesian Area or the Cairns Northern Beaches Subartesian Area are assessable development for the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(ii).

‘(3) In this section—

***monitoring bore*** means a water bore used for monitoring the levels and quality of water in an aquifer.

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**‘Division 2                    Strategies for Atherton Subartesian Area only**

**‘Subdivision 1            Applications for or about water licences**

**‘52            Applications for subartesian management area A**

- ‘(1) This section applies if an application for or about a water licence to take subartesian water in subartesian management area A would increase the volume of subartesian water taken in the area.
- ‘(2) The chief executive may grant the application only if—
  - (a) the nominal entitlement for the licence does not result in the total nominal entitlements for licences in the area being more than 14500ML; and
  - (b) the resource operations plan includes a process for granting the water.
- ‘(3) This section is subject to section 54.

**‘53            Applications for subartesian management area B**

- ‘(1) This section applies if an application for or about a water licence to take subartesian water in subartesian management area B would increase the volume of subartesian water taken in the area.
- ‘(2) The chief executive must refuse the application.
- ‘(3) This section is subject to section 54.

**‘54            Exceptions for particular applications**

‘Sections 52 and 53 do not apply to an application to—

- (a) reinstate, under section 221 of the Act, an expired water licence; or

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- (b) amalgamate, under section 224 of the Act, 2 or more water licences in force immediately before the commencement of this section; or
- (c) replace, under section 225 of the Act, an original licence if the original licence is to be replaced with 2 or more water licences; or
- (d) replace, under section 229 of the Act, an expired licence with 1 or more licences.

## **‘Subdivision 2      Continued authorisations for part of subartesian management area B**

### **‘55      Definition for sdiv 2**

‘In this subdivision—

*existing works* means works in existence on 19 December 2002 that the chief executive is satisfied were used, or capable of being used, on that day to take subartesian water other than for stock or domestic purposes.

### **‘56      Taking water using existing works authorised**

- ‘(1) This section applies to an owner of land in subartesian management area B on which there are existing works for taking subartesian water in the relevant area.
- ‘(2) The owner may continue to take subartesian water using the works for 1 year after the commencement of this section.
- ‘(3) Also, if the owner gives the chief executive notice in the approved form of the taking of subartesian water using the works, the owner may continue to take subartesian water using the works—
  - (a) after the notice is given; and
  - (b) until the owner is granted a water licence under section 57.



- 
- ‘(4) Subsections (2) and (3) do not authorise the owner to take more than the annual volume of subartesian water the owner was taking using the works before 20 December 2002.
- ‘(5) In this section—
- relevant area* means the part of subartesian management area B from which water could lawfully be taken before 20 December 2002 other than under a water licence.

### ‘57 Granting water licences

- ‘(1) This section applies if, under section 56(3), an owner of land gives the chief executive notice of the taking of subartesian water.
- ‘(2) After the chief executive receives the notice, the chief executive must, under section 212 of the Act, grant a water licence to the owner to continue to take subartesian water using the existing works.
- ‘(3) In deciding the nominal entitlement for the licence, the chief executive must have regard to—
- (a) the capacity of the works for taking subartesian water; and
  - (b) the annual volumes of subartesian water estimated by the chief executive to have been taken during the period of not more than 10 years immediately before 20 December 2002; and
  - (c) the efficiency of the use of the water mentioned in paragraph (b); and
  - (d) the availability of other water sources; and
  - (e) the availability of water in the aquifer to which the authorisation relates.

### ‘57A Restriction on nominal entitlement

‘In deciding the nominal entitlement for a water licence mentioned in section 57(2), the chief executive must not decide a volume that is more than—



- 
- (c) replace, under section 225 of the Act, an original licence if the original licence is to be replaced with 2 or more water licences; or
  - (d) replace, under section 229 of the Act, an expired licence with 1 or more licences.

### **‘57C Restriction on nominal entitlement**

‘In deciding the nominal entitlement for a water licence to take subartesian water in the Cairns Northern Beaches Subartesian Area, the chief executive must not decide a volume that is more than—

- (a) for a licence to take water for irrigation purposes—1.75ML for each hectare of crop to be irrigated; or
- (b) for a licence to take water for another purpose—the volume estimated by the chief executive to be required for the purpose.’.

## **17 Amendment of s 58 (Monitoring)**

(1) Section 58(1)—

*omit, insert—*

‘(1) The monitoring requirements for the plan are—

- (a) water monitoring for—
  - (i) stream flows; and
  - (ii) taking and diverting water; and
  - (iii) releases from water storages; and
  - (iv) water quantity for water storages including inflow, storage volume or water level and outflow; and
  - (v) subartesian water levels; and
- (b) natural ecosystems monitoring for—
  - (i) volume, frequency, duration and timing of stream flows; and

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- (ii) information on hydraulic habitat requirements of ecological assets in the plan area; and
  - (c) other water and natural ecosystem monitoring required by the chief executive.’.
- (2) Section 58(2)—  
*insert—*  
‘(c) other monitoring programs considered by the chief executive to be relevant to the matters mentioned in subsection (1).’.
- (3) Section 58—  
*insert—*
- ‘(3) In this section—  
*ecological assets* include a species, a group of species, a biological function, an ecosystem and a place of natural value.  
*hydraulic habitat requirements*, of an ecological asset, are the hydraulic or physical attributes of the flow regime that are—
  - (a) required for a particular biological process or response to happen in relation to the asset; or
  - (b) necessary to maintain the long-term biological integrity of the asset.’.

## **18 Amendment of s 60 (Resource operations licence holders to give reports)**

- (1) Section 60(2), ‘subsection (1)(a), (1)(b)(i) or (1)(b)(ii)’—  
*omit, insert—*  
‘subsection (1)’.
- (2) Section 60(2)(a), ‘financial year’—  
*omit, insert—*  
‘water year for the resource operations plan’.

- 
- (3) Section 60(2)(b), ‘financial’—  
*omit, insert—*  
‘water’.
  - (4) Section 60(3)—  
*omit.*
  - (5) Section 60(4), before ‘be given’—  
*insert—*  
‘also’.
  - (6) Section 60(4), as amended—  
*renumber* as section 60(3).

**19 Amendment of s 64 (Minor amendment of plan—Act, s 57)**

Section 64(j), ‘section 42’—  
*omit, insert—*  
‘section 26’.

**20 Insertion of new pt 10**

After section 65—  
*insert—*

**‘Part 10 Transitional provision for Water Resource (Barron) Amendment Plan (No. 1) 2009**

**‘66 Appeals against particular decisions**

- ‘(1) Subsection (2) applies if—
  - (a) before the commencement, an interested person has appealed under chapter 6 of the Act against a review decision to grant in part an application for or about a water licence that had the effect of increasing the

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volume of water taken in subartesian management area B; and

(b) the appeal has not been decided before the commencement.

‘(2) For deciding the appeal, part 6 as in force immediately before the commencement continues to apply.

‘(3) In this section—

*commencement* means the day this section commences.’.

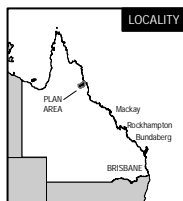
## **21 Replacement of sch 3 (Subcatchment areas)**

Schedule 3—

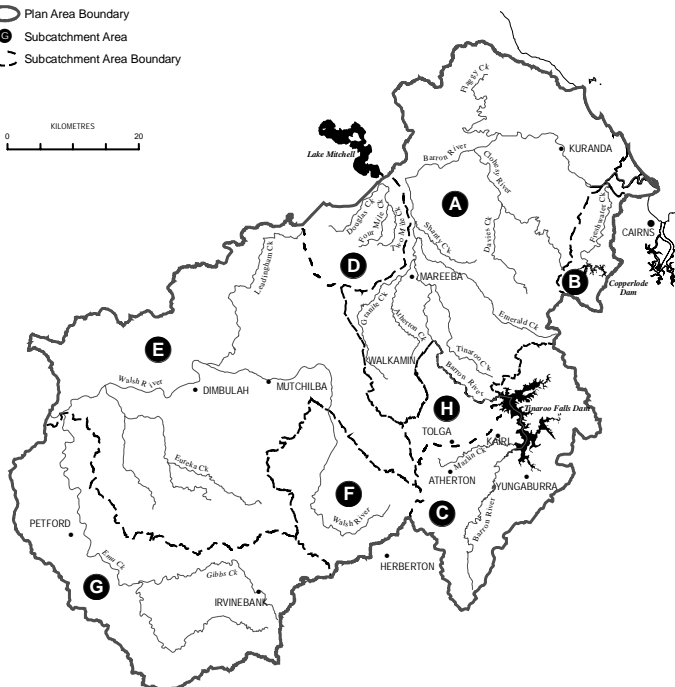
*omit, insert*—

# 'Schedule 3 Subcatchment areas

section 7



- LEGEND
- Plan Area Boundary
  - Subcatchment Area
  - Subcatchment Area Boundary



## 22 Amendment of sch 5 (Environmental flow objectives)

- (1) Schedule 5, part 2, table 7, entry for node 5, column 6, '29'—  
*omit, insert—*  
 '28'.

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- (2) Schedule 5, part 2, table 7, entry for node 7, column 2, ‘96’—  
*omit, insert—*  
‘93’.
- (3) Schedule 5, part 3, table 8, entry for node 7, column 2, ‘0.4’—  
*omit, insert—*  
‘0.7’.

**23 Amendment of sch 6 (Water allocation security objectives)**

- (1) Schedule 6, part 2, item 3, ‘the table’—  
*omit, insert—*  
‘table 1’.
- (2) Schedule 6, part 2, item 3, table—  
*omit, insert—*

**‘Table 1**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Water allocation group</b>	<b>50%</b>	<b>70%</b>	<b>80%</b>	<b>95%</b>
CA	—	—	—	80
CB	100	90	85	—
CC	100	90	85	—

- ‘4 For a water allocation group mentioned in table 2, column 1, the annual volume probability be at least the percentage stated for the group in column 2.

**Table 2**

<b>Column 1</b>	<b>Column 2</b>
<b>Water allocation group</b>	<b>Annual volume probability</b>
CA	70



<b>Column 1</b>	<b>Column 2</b>
<b>Water allocation group</b>	<b>Annual volume probability</b>
CB	60
CC	90’.

## **24 Amendment of sch 7 (Total volumes for water allocation groups)**

Schedule 7, table, column 2—

*omit, insert—*

**‘Column 2**

**ML**

3688

18337

175’.

## **25 Replacement of sch 8 (Rates and pump sizes)**

Schedule 8—

*omit, insert—*

### **‘Schedule 8 Rates and pump sizes**

sections 40A, 41 and 45C

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Pump size (mm)</b>	<b>Rate (litres/second)</b>	<b>Daily volumetric limit (ML)</b>
32	8	0.6
40	16	1
50	25	1.5
65	46	3.5
80	65	3.9

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Pump size (mm)</b>	<b>Rate (litres/second)</b>	<b>Daily volumetric limit (ML)</b>
100	95	6.9
125	120	7.8
150	150	12.1
200	220	15.6
250	300	21.6
300	350	25.9
350	400	30.2
375 to 400	500	37.2
500	660	47.5
600 to 610	1200	86.4
650 to 660	1700	120’.

**26 Amendment of sch 9 (Priority areas)**

Schedule 9, section 2—

*omit, insert—*

**‘2 Barron River priority area**

‘The Barron River priority area consists of the following—

- (a) Barron River and its tributaries upstream of Lake Tinaroo, excluding Leslie Creek;
- (b) Leslie Creek and its tributaries;
- (c) Mazlin Creek and its tributaries upstream of Lake Tinaroo to its confluence with Priors Creek;
- (d) Peterson Creek and its tributaries.’.

**27 Amendment of sch 10 (Dictionary)**

- (1) Schedule 10, definition *bore pumping test*—

*omit.*

## (2) Schedule 10—

*insert—*

***‘annual volume probability***, for a water allocation group, means the percentage of years in the simulation period in which the volume of water that may be taken by the group is at least the total of the nominal volumes for the allocations in the group.

***daily volumetric limit***, for a water entitlement, means the maximum volume of water that may be taken under the entitlement in a day.

***nominal entitlement*** see the *Water Regulation 2002*, section 65.

***plan area*** means the area shown as the plan area on the map in schedule 1.

***seasonal volumetric limit***, for a water entitlement, means the maximum volume of water that may be taken under the entitlement during the period from 1 July to 31 December.’

(3) Schedule 10, definition *existing works*, ‘means works that’—  
*omit.*(4) Schedule 10, definition *existing works*, before paragraph (a)—  
*insert—*

‘1 Generally, *existing works* means works that—’.

(5) Schedule 10, definition *existing works*—  
*insert—*

‘2 For part 6, division 2, subdivision 2—see section 55.’.

## ENDNOTES

- 1 Approved by the Governor in Council on 26 November 2009.
- 2 Notified in the gazette on 27 November 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Environment and Resource Management.

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