

Water Resource (Barron) Amendment Plan (No. 1) 2015

Explanatory notes for SL 2015 No. 117

made under the

Water Act 2000

General Outline

Short title

Water Resource (Barron) Amendment Plan (No. 1) 2015

Authorising law

Section 55 of the *Water Act 2000*

Policy objectives and the reasons for them

Section 55 of the *Water Act 2000* provides for the Minister to amend a water resource plan.

The objective of the *Water Resource (Barron) Amendment Plan (No. 1) 2015* is to improve and streamline the framework for the allocation and management of surface water and groundwater in the plan area.

Achievement of policy objectives

The *Water Resource (Barron) Amendment Plan (No. 1) 2015* will improve and streamline the framework for the allocation and management of surface water and groundwater in the plan area by:

- aligning provisions with more contemporary water resource plans;
- identifying unallocated water reserves and providing a process for release of unallocated water;
- authorising and limiting, where appropriate, the taking of water without an entitlement for particular purposes;
- regulating interference with water;
- converting particular water licences to tradable water allocations;
- providing a process for particular groundwater licences to be amended to include additional nominal entitlement; and
- removing unnecessary and redundant provisions.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the policy objectives of Chapter 2 of the *Water Act 2000*, which is to advance the sustainable management of water.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

The *Water Act 2000* sets out the framework for the development of an amendment to a water resource plan. There are no alternative means for achieving the policy objectives.

Benefits and costs of implementation

Implementation of the *Water Resource (Barron) Amendment Plan (No. 1) 2015* will provide the following benefits:

- addressing concerns of the Land Court of Queensland and Queensland Ombudsman in relation to the issue of groundwater licences in the Atherton area;
- expanding the water market through the conversion of water licences to tradable water allocations;
- establishing unallocated water reserves and a process for releasing unallocated water;
- simplifying regulatory requirements and processes; and
- removing redundant provisions.

Consistency with fundamental legislative principles

The *Water Resource (Barron) Amendment Plan (No. 1) 2015* has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992* and is consistent with these principles.

Consultation

Government departments and agencies have been consulted on the scope and effect of the *Water Resource (Barron) Amendment Plan (No. 1) 2015*.

The community in the plan area has been consulted throughout all stages of the amendment process via:

- public information sessions across the plan area;
- meetings with key stakeholder groups;
- consideration of written submissions on the proposed plan amendments; and
- follow up discussions with individuals.

Public information sessions were held across the plan area to answer queries about the proposed plan amendments and to provide a forum for the community to discuss any concerns in relation to proposed plan amendments. Several meetings were also held with the Barron Water Consultation Group, which represents irrigators and other water

users across the plan area, to discuss many of the water management issues addressed through the plan amendments.

Following the release of the draft amendments to the *Water Resource (Barron) Plan 2002*, a public information session was held in Mareeba on 11 December 2015. Departmental officers contacted individual water users to clarify issues raised in their submissions on the draft amendments to the *Water Resource (Barron) Plan 2002*. Individual client meetings were also held during the submissions period for eligible licence holders seeking an amendment to their groundwater licence for additional groundwater entitlements.

No changes have been made to the draft *Water Resource (Barron) Amendment Plan (No. ..) 2014* as a result of consultation. A consultation report has been prepared, which documents how issues raised during consultation on the proposed amendments have been dealt with, and can be accessed online.

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Notes on Provisions

Short title

Clause 1 specifies the short title of the subordinate legislation as the *Water Resource (Barron) Amendment Plan (No. 1) 2015*.

Plan amended

Clause 2 states that this plan amends the *Water Resource (Barron) Plan 2002*.

Amendment of s 2 (Purposes of plan)

Clause 3 amends the purposes of the plan to apply to both surface water and groundwater, and includes a new purpose to regulate the taking of groundwater.

Replacement of ss 5 and 6

Clause 4 replaces the former subartesian areas and subartesian management areas with groundwater management areas, and defines a groundwater management area for the plan area.

Amendment of s 7 (Subcatchment areas)

Clause 5 amends the schedule number for subcatchment areas.

Replacement of s 8 (Information about areas)

Clause 6 replaces subartesian area and subartesian management area with groundwater management areas, and aligns this provision with more contemporary water resource plans.

Replacement of s 10 (Water to which plan applies)

Clause 7 replaces subartesian water with underground water (groundwater), and aligns this provision with more contemporary water resource plans.

Replacement of pt 3, divs 1 and 2

Clause 8 replaces the previous structure used to present plan outcomes with a structure aligned with more contemporary water resource plans. Clause 8 also includes a new economic outcome to support water being made available for particular groundwater licences in the Atherton groundwater management area.

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

Clause 9 amends the performance indicators for water allocation security objectives to include a new water allocation group—HB.

Amendment of pt 5, hdg (Strategies for achieving outcomes (surface water))

Clause 10 amends the heading for strategies for achieving outcomes to also include groundwater.

Amendment of s 21 (Application of pt 5)

Clause 11 amends the application of part 5 to also apply to groundwater.

Omission of s 24 (Taking or interfering with water from waterholes or lakes)

Clause 12 omits specific requirements for the chief executive to consider in making a decision about particular water entitlements that allow for the taking or interfering with water from a waterhole or lake. The removal of these requirements does not limit the matters the chief executive may consider in making a decision about these particular water entitlements.

Replacement of pt 5, div 2, hdg (Dealing with unallocated water under a resource operations plan)

Clause 13 replaces the heading for dealing with unallocated water under a resource operations plan with a new heading—unallocated water. This change facilitates the inclusion of a framework for dealing with unallocated water under the water resource plan.

Insertion of new ss 24–24C

Clause 14 inserts new provisions for establishing a framework for dealing with unallocated water under the water resource plan. These provisions define the types of unallocated water reserves, the purpose for which water from each reserve may be granted, the volumes of water available under each reserve and specific conditions, and the process for granting unallocated water.

Amendment of s 25 (Matters chief executive must consider)

Clause 15 amends the section by omitting ‘under a resource operations plan’, as the framework for dealing with unallocated water is contained in the water resource plan.

Replacement of pt 5, div 3, hdg (Determining operational and supply arrangements for water infrastructure)

Clause 16 replaces the heading for determining operational and supply arrangements for water infrastructure with a new heading—authorised taking or interfering with water without water entitlement. This change facilitates the inclusion of provisions authorising and limiting, where appropriate, the taking of or interfering with water without an entitlement for particular purposes and activities. The provisions under the heading for determining operational and supply arrangements for water infrastructure have been retained under part 5A, division 2.

Insertion of new ss 26 and 26A

Clause 17 inserts new provisions for authorising and limiting, where appropriate, the taking of or interfering with water without an entitlement for particular purposes and activities.

Insertion of new pt 5A hdg

Clause 18 inserts a new heading for part 5A—additional strategies for achieving outcomes for surface water.

Insertion of new pt 5A, div 1

Clause 19 inserts a new division 1 preliminary, under the new part 5A.

Insertion of new pt 5A, div 2 hdg

Clause 20 inserts a new division 2 heading—operational and supply arrangements for water infrastructure.

Insertion of new pt 5A, div 3

Clause 21 inserts a new division—interference with water in a watercourse, lake or spring. This new division facilitates the inclusion of provisions regulating proposed interference with water for particular purposes.

Amendment of s 37 (Elements of water allocation to take unsupplemented water)

Clause 22 amends the elements of water allocation to take unsupplemented water to remove elements that are considered unnecessary. The nominal volume for a water allocation has been included to reflect that this is an element of existing water allocations. The maximum rate element, which is typically litres per second, has been removed as the daily volumetric limit is considered to provide the necessary level of regulation for unsupplemented water allocations. The seasonal volumetric limit element has also been removed, and replaced with a water sharing rule in the resource operations plan.

Amendment of s 39 (Annual volumetric limit)

Clause 23 amends subsections (a) and (b) by replacing 'and' with 'or'.

Omission of s 39A (Seasonal volumetric limit)

Clause 24 omits the seasonal volumetric limit for unsupplemented water allocations, which has been replaced with a water sharing rule in the resource operations plan.

Amendment of s 40A (Daily volumetric limit)

Clause 25 amends subsections (1)(a) and (1)(b)(ii) by replacing 'and' with 'or', and omits subsection (3), which limited the daily volumetric limit to the maximum rate decided under another section that has also been omitted.

Omission of s 41 (Maximum rates for taking unsupplemented water)

Clause 26 omits the maximum rates for taking unsupplemented water under a water allocation, as the daily volumetric limit is considered to provide the necessary level of regulation.

Amendment of s 43 (Water allocation groups)

Clause 27 amends the water allocation groups to include a new group—class HB, for water allocations in subcatchment area H.

Amendment of s 44 (Elements of water licence)

Clause 28 amends the elements of water licence to remove elements that are considered unnecessary. The seasonal volumetric limit element for water licences in subcatchment areas C and H has been omitted as the water licences in these subcatchments are converted to water allocations. The subsection numbering has also been amended accordingly. This clause also inserts provisions specifying that the nominal entitlement element does not apply to water licences with a purpose of 'relift' or 'hydro-electric', and the daily volumetric limit element does not apply to water licences with a purpose of 'relift'.

Amendment of s 44A (Purpose to be stated on water licence)

Clause 29 inserts additional purposes that may be stated on water licence—relift and hydro-electric, and subsection numbering has been amended accordingly.

Amendment of s 45 (Nominal entitlement)

Clause 30 amends subsections (2)(a) and (2)(b)(iii) by replacing ‘and’ with ‘or’.

Omission of s 45A (Seasonal volumetric limit)

Clause 31 omits the seasonal volumetric limit for water licences in subcatchment areas C and H, as the water licences in these subcatchments are converted to water allocations.

Replacement of s 46 (Maximum rates for taking unsupplemented water)

Clause 32 replaces the reference to maximum rates for taking unsupplemented water under a water allocation with detailed provisions, as the maximum rates for taking unsupplemented water under a water allocation has been removed. The detailed provisions state the process for determining the maximum rate for taking unsupplemented water under a water licence in the plan area.

Omission of pt 5A, div 7 (Moratorium notice)

Clause 33 omits the division for the continued effect of the moratorium notice, as the effect of the moratorium has been replaced through the implementation of the water resource plan.

Replacement of pt 6, hdg (Strategies for achieving outcomes (subartesian water))

Clause 34 replaces the heading strategies for achieving outcomes (subartesian water), with a new heading—additional strategies for achieving outcomes for groundwater.

Amendment of s 48 (Application of pt 6)

Clause 35 amends the application of this part by replacing only subartesian water with groundwater.

Amendment of s 49 (Elements of water licence)

Clause 36 amends the elements of water licence by replacing subartesian water with groundwater.

Amendment of s 49A (Purpose to be stated on water licence)

Clause 37 amends the purpose to be stated on water licence by replacing subartesian water with groundwater.

Omission of s 50 (Limitation on taking water—Act, s 20(2))

Clause 38 omits limitation on taking water—Act, s 20(2), which has been replaced by new provisions under part 5, division 3.

Amendment of s 51 (Relationship with *Sustainable Planning Act 2009*)

Clause 39 amends relationship with *Sustainable Planning Act 2009* by replacing subartesian area with groundwater management area, replacing subsections (1) and (2) with an amended subsection (1), and replacing subartesian water with groundwater.

The amendments to subsections (1) and (2) removes the provision that made works for taking subartesian water for stock and domestic purposes self-assessable development, which is considered unnecessary as this provision did not apply to stock and domestic bores (a type of works) under subsection (3).

This clause also amends subsection (3), which specifies where subsection (1) does not apply. The exemption from being self-assessable development for bores not constructed within 200m of a boundary of a parcel of land or a watercourse has been amended to remove the boundary of a parcel of land. The location of another bore is more relevant for assessing impacts on groundwater resources than consideration of land parcel boundaries, which may change.

The exemption from being self-assessable development for bores within 400m of another bore has been amended to exempt any new bore situated on land owned by the same landholder, or where a new bore is to be situated within 400m of another landholder's parcel, written consent for a new bore is obtained from the other landholder. This clause also defines new terms—first bore and second bore, and expands the definition for previous bore to recognise that development permits were not required for some bores in the past. Subsection numbering has also been amended accordingly.

Replacement of pt 6, div 2

Clause 40 replaces the previous part 6, division 2 with a new part 6, division 2, which includes provisions to support water being made available in the Atherton groundwater management area. The previous part 6, division 2 no longer applies as the resource operations plan provides for dealing with water licences in the Atherton groundwater management area.

Amendment of pt 6, div 3, hdg (Strategies for Cairns Northern Beaches Subartesian Area only)

Clause 41 amends the division heading by replacing subartesian area with groundwater management area.

Amendment of s 57B (Decisions about taking subartesian water)

Clause 42 amends decisions about taking subartesian water by replacing subartesian water with groundwater.

Amendment of s 57C (Restriction on nominal entitlement)

Clause 43 amends restriction on nominal entitlement by replacing subartesian water with groundwater, and replacing subartesian area with groundwater management area.

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

Clause 44 amends minor amendment of plan—Act, s 57 by omitting subsection (j), as this subsection (j) refers to the continued effect of the moratorium notice section that has been removed.

Omission of pt 10 (Transitional provision for Water Resource (Barron) Amendment Plan (No. 1) 2009)

Clause 45 omits part 10 as this transitional provision has expired.

Replacement of schs 1 to 3

Clause 46 replaces schedules 1, 2 and 3 with new schedules 1 and 2. Schedule 1 plan area map has been amended to include groundwater management areas, and also replaces schedule 2 subartesian areas map. Schedule 3 subcatchment areas has been renumbered as schedule 2.

Amendment of sch 4 (Nodes)

Clause 47 amends the adopted middle thread distance (AMTD) for nodes 7 and 9.

Replacement of sch 5 (Environmental flow objectives)

Clause 48 replaces schedule 5 by removing low flow objectives that are met by minimising the extent to which the statistical targets are not achieved. Environmental flow objectives are set to avoid or mitigate environmental impacts resulting from interference with the natural hydrological flow regime, however, the 'minimise the extent' term does not limit the level of change to a flow regime. All low flow objectives that do not include 'minimise the extent' for statistical targets have been retained, as have all medium to high flow objectives and seasonal flow objectives. Paragraph numbering has been amended accordingly.

Amendment of sch 6 (Water allocation security objectives)

Clause 49 amends schedule 6 to include water allocation security objectives for the new water allocation group—HB.

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

Clause 50 amends schedule 7 to include a total volume for water allocation group HB.

Amendment of sch 9 (Priority areas)

Clause 51 amends schedule 9 by simplifying the description of the Barron River priority area and inserting a new Tolga priority area.

Amendment of sch 10 (Dictionary)

Clause 52 amends schedule 10 by removing terms from the dictionary that have been omitted from the water resource plan and including definitions for new terms used in the water resource plan.