

Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019

Explanatory notes for SL 2019 No. 251

made under the

Water Act 2000

General Outline

Short title

Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019

Authorising law

Sections 42, 44 to 48 and 50 the *Water Act 2000* (the Act)

Policy objectives and the reasons for them

Section 42 of the Act provides for the Minister to prepare a water plan for any part of Queensland to advance the sustainable management of water. A water plan for the Moreton plan area was developed in 2007.

Section 50 of the Act provides for the Minister to amend or replace an existing water plan.

The objective of the *Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019* (the water amendment plan) is to provide a framework for the allocation and sustainable management of surface water and underground water in the Central Lockyer Valley water supply scheme. The water amendment plan's strategies ensure future water requirements can be met and supply of water to existing water users supported.

Achievement of policy objectives

The water amendment plan provides for the allocation and sustainable management of water in the plan area by—

- defining the availability of water; and

- providing a framework for sustainably managing water; and
- identifying priorities and mechanisms for dealing with future water requirements; and
- regulating the taking of and interference with surface water, and the taking of underground water; and
- providing a framework for establishing and managing water allocations.

Consistency with policy objectives of authorising law

The water 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 water amendment plan is consistent with the policy objectives of other legislation, including the South East Queensland (SEQ) Regional Plan 2017 Shaping SEQ and environmental values and water quality objectives established for the Central Lockyer Valley under the Environmental Protection (Water and Wetland Biodiversity) Policy 2019.

Alternative ways of achieving policy objectives

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

Benefits and costs of implementation

Implementation of the water amendment plan will provide:

- a framework for the allocation and sustainable management of water in the Central Lockyer Valley water supply scheme.
- conversion of groundwater licences that do not state a nominal volume to tradeable water allocations.
- establishment of six groundwater trading zones and associated water sharing rules.
- conversion of interim water allocations in the Central Lockyer Valley water supply scheme to tradable water allocations.
- establishment of four water allocation security objectives in Laidley Creek, Lockyer Creek, Morton Vale Pipeline and underground water areas of the Central Lockyer Valley water supply scheme.
- establishment of a strategic reserve for small-scale, low risk and short term water needs in the Lower Brisbane and Cabbage Tree Creek sub-catchment areas.
- a mechanism to collect and analyse relevant information about groundwater in implementation area 1 of the Lockyer Valley groundwater management area to monitor for any emerging risks to the sustainable management of water.

Consistency with fundamental legislative principles

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

Consultation

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

A public notice was published on the Department of Natural Resources, Mines and Energy's (the department) website and in the *Gatton Star* on 21 August 2019 stating the release of the *Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019* (draft water amendment plan) and where further information could be located.

Extensive consultation was undertaken by the department together with representatives from the Lockyer Water Users Forum and Seqwater during six community workshops, over three days, held in Gatton in early September. At these workshops, provisions of the draft water amendment plan were discussed and explained to stakeholders.

Submissions were invited from entitlement holders and stakeholders with the closing date for submissions being 1 October 2019. Twenty-five submissions were received and were considered in finalising the water amendment plan. There were no issues raised in submissions that resulted in a change of substance to the draft water amendment plan. The *Water Plan (Moreton)(Supply Scheme Arrangements) Arrangement Plan 2019* Minister's Consideration Report, provides further information about the consultation process and outcomes of community consultation.

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 the QPC therefore considers that, under the *Queensland Government Guide to Better Regulation*, the department is not required to seek advice from the QPC.

Notes on provisions

Amendments to part 1: Preliminary

Clause 1 states that the amendment plan may be cited as the *Water Plan (Moreton) (Supply Scheme Arrangements) Amendment Plan 2019* (the water amendment plan).

Clause 2 states that the water amendment plan commences on .

Clause 3 states that this water amendment plan amends the *Water Plan (Moreton) 2007* (the water plan).

Amendments to part 2: Plan area and water to which plan applies

Clause 4 amends section 5 to state that what was implementation area 2, has now been divided into implementation areas 2A and 2B. This matches the original management intent of this section when first proposed in the original water plan.

Clause 5 replaces the current section 6A in the water plan with a new section 6A that provides for, in addition to the existing references to trading zones, references to trading zones in the Central Lockyer Valley water supply scheme.

Clause 6 amends section 7 to include reference to a new schedule 5A, and removes reference to the Landcentre at Woolloongabba as this south-east regional office has been relocated.

Amendments to part 3: Outcomes for sustainable management of water

Clause 7 amends section 11 by including 4 new general outcomes specific to the management of water resources in the Central Lockyer Valley water supply scheme. It is to be noted that the general outcomes for surface water under subsection (1) and the general outcomes for groundwater in subsection (2) still apply to surface water and groundwater in the Central Lockyer water supply scheme, in addition to the new outcomes stated under subsection (4).

Insertion of new part 3A: Measures for achieving water plan outcomes

Clause 8 inserts new measures into the water plan consistent with section 43(2)(a) of the Act. The measures stated in the water amendment plan provide quantifiable and objective links between high level outcomes and specific management actions. The measures require a number of actions to be undertaken by the chief executive and the resource operations licence holder within specified timeframes stated in the water plan.

The new measures stated under the new section 12A are only applicable for water in the groundwater unit 1 in implementation area 1 in the Lockyer Valley groundwater management area.

Amendments to part 4: Performance indicators and objectives

Clauses 9 to 11, 13 to 17 make minor adjustments to part 4 of the water plan for the purposes of enhancing readability.

Amendments made under division 3

Clause 12 amends section 16 to include new water allocations security objectives for a water allocation to take supplemented groundwater in a zone in the Central Lockyer Valley water supply scheme. The water allocation security objective is the maximum allowable volume for the zone for the water allocation's priority group.

Amendments to part 5: Strategies for achieving outcomes (surface water)

Amendments made under division 3

Clause 18 replaces the unallocated water provisions under part 5, division 3 with new sections to deal with new unallocated water reserves being made under the water plan, and to streamline and contemporise the wording of the provisions for consistency with other water plans in Queensland

Section 24 establishes a general and a strategic reserve under division 3. The total volume of water held in reserve which may be granted as general reserve or strategic reserve is 100 megalitres (ML) in total. For further clarification, this provision does not mean that there is 100ML of general reserve and 100ML of strategic reserve. For example, 50ML may be released as general reserve unallocated water, and 50ML may be released as strategic reserve unallocated water, where the total volume of water released from both is equal to or less than 100ML.

Section 24A states the processes for releasing unallocated water held as general or strategic reserve. The processes for releasing the unallocated water are stated in the *Water Regulation 2016*, part 2, division 2, subdivision 2. In preparing and implementing a process stated in the *Water Regulation 2016* for releasing unallocated water, the chief executive must consider the matters stated in the water management protocol.

Clause 19 amends section 25 to include a new purpose for releasing unallocated water from the general or strategic reserve, that being release for a purpose for providing water to a community facility, or a small scale commercial enterprise. Clause 19 also defines what a community facility means.

Omission of division 4

Clause 20 omits part 5 division 4 (sections 27-34) regarding the process for granting or amending an interim resource operations licence. The *Water Act 2000* no longer provides for a water plan to grant or amend an interim resource operations licence. Similarly, clause 20 also omits section 35, as the *Water Act 2000* no longer provides the head of power for a water plan to grant an interim water allocation.

Amendments made under division 6

Clause 21 replaces section 42 with a new section 38 to grant 2 water allocations to Seqwater under a water entitlement notice for taking water from the Morton Vale Pipeline. One water allocation will be granted with a nominal volume of 3507ML and will belong to the medium priority group. One water allocation will be granted with a nominal volume of 185ML and will belong to the high priority group. The nominal volume for the medium priority group water allocation has been determined with consideration of any volumes authorised to be taken under existing water use agreements and supply contracts between the bulk water supply authority and the holder of the agreement or contract.

Clause 21 also inserts a new section 39 which requires the chief executive to consider existing water use agreements and supply contracts between the bulk water supply authority and water users, when deciding the water allocation dealing rules to be included in the water management protocol for the water allocation granted under section 38.

Amendments made under division 7

Clause 22 replaces section 43 with new section 40 and 41, which provides for an authorisation to take surface water from the Central Lockyer Valley water supply scheme to be converted to a water allocation to take surface water from the Central Lockyer Valley water supply scheme.

Clause 23 amends section 47 and states that a water allocation to take surface water in the Central Lockyer Valley water supply scheme from the Morton Vale Pipeline zone belongs to the high priority group, or the medium priority B group. Clause 23 also states that a water allocation to take surface water in the Central Lockyer Valley water supply scheme from another location that is not the Morton Vale Pipeline zone belongs to the medium priority C group. Clause 23 also removes references to interim resource operations licence priority groups which is no longer relevant.

Amendments made under division 8

Clause 24 amends section 55 to clarify that the maximum rate is to be stated as a rate at which water may be taken during a particular period of time or in particular circumstances under the water licence. Clause 24 also inserts that that purpose to be stated on a water licence must be “any”. This is not retrospective and only applies to new water licences to state a purpose of “any” in the future.

Amendments to part 6: Strategies for achieving outcomes (groundwater)

New division 1A

Clause 25 inserts a division 1A into part 6 and sections 62A and 62B to state that the division applies to decisions about the allocation or management of groundwater to which this water amendment plan applies and that a decision about the allocation or management of groundwater to which this water amendment plan applies, other than a decision about a water permit, must be consistent with the water allocation security objectives stated in the water plan.

Clauses 26 to 29 amend those sections under those clauses to replace references to implementation area 2 with implementation areas 2A and 2B which are the correct references for managing water in the upper Lockyer Valley consistent with the change which is described in clause 33 for the amendment to the map in schedule 3.

Replacement of division 6

Clause 30 replaces part 6, division 6 to insert a new framework for converting water licences to water allocations to take supplemented groundwater in the Central Lockyer Valley water supply scheme.

Converting water licences to water allocations to take supplemented groundwater

New section 84 states that the purpose of the division is to state the arrangements and process for converting, under a water entitlement notice for this water amendment plan, particular water licences to water allocations.

New section 84A defines particular words and phrases used under this division that are additional to words and phrases in the dictionary.

New subdivision 2 states the processes for determining particular attributes of water allocations to be converted under this division. These attributes include:

- The **location**
- The **nominal volume** for particular water allocations
- The **nominal volume** for other water allocations
- The **priority group**
- The **purpose**

New section 84B states that for a water licence to take supplemented groundwater from the Central Lockyer Valley water supply scheme for a purpose other than stock purposes or domestic purposes, a water entitlement notice may, under section 70(1)(a) of the Act, implement this water amendment plan by providing for 1 or more of the water licences to be converted to 1 or more water allocations to take supplemented groundwater from the Central Lockyer Valley water supply scheme.

New section 84C states that when determining the location to be stated on a water allocation converted under this division, the location from which water may be taken

under a water allocation converted from 1 or more water licences must be in a trading zone for groundwater, and from a location from which water could have been taken under—

- for a water allocation converted from 1 water licence—the water licence; or
- for a water allocation converted from more than 1 water licence—1 of the water licences.

New section 84D describes the stated nominal volumes for water allocations converted from particular water licences held by Lockyer Valley Regional Council. The nominal volumes for these particular water allocations cannot be determined using new sections 84E, 84F or 84G. The volumes stated on the water allocations described under this section are reflective of the historical use of water taken under the water licences from which these water allocations are converted, and reflective of the water allocations intended use. The converting authorisations and the respective nominal volumes to be granted under this section are as follows:

- for the water allocation converted from water licence 401310 is 60ML;
- for the water allocation converted from water licences 66442G is 10ML;
- for the water allocation converted from water licences 98268G is 10ML.

New sections 84E, 84F or 84G describe the process for determining the nominal volumes for water allocations converted under this division for water allocations for which section 84D does not apply. Irrigable area is a term used in each of these new sections and will be defined and described in the explanatory notes for the sections under the new subdivision 3.

New section 84E states that if 1 water licence is converted to 2 water allocations (the **first water allocation** and the **second water allocation** respectively):

- the nominal volume for the **first water allocation** is the volume, in megalitres, calculated by multiplying the irrigable area for the water licence by 2.
- the nominal volume for the **second water allocation** is the volume, in megalitres, calculated by multiplying the irrigable area for the water licence by 4.

New section 84F states that if 2 or more water licences are converted to 2 water allocations (the **first water allocation** and the **second water allocation** respectively).

- the nominal volume for the **first water allocation** is the volume, in megalitres, calculated by multiplying the combined irrigable area for the water licences by 2.
- the nominal volume for the **second water allocation** is the volume, in megalitres, calculated by multiplying the combined irrigable area for the water licences by 4.

The combined irrigable area, for water licences, means the sum of the irrigable areas for the water licences.

New section 84G states that if the nominal volume for a water allocation worked out under sections 84E or 84F is not a whole number, the nominal volume for the water allocation must be rounded down to the nearest whole number.

New section 84H states that the **priority group** for a water allocation with a nominal volume decided under

- new sections 84E(2) or 84F(2) belongs to the medium priority A group; or
- new section 84E(3) or 84F(3) belongs to the low priority group.

New section 84I states that the **purpose** for taking water under a water allocation converted from a water licence must be “any”, or for a water allocation converted from a water licence stated in new section 84D, “urban”.

New section 84J states that water allocations converted from water licences under this division are managed under the resource operations licence for the Central Lockyer Valley water supply scheme.

Working out irrigable area

New subdivision 3 states the process for working out the **irrigable area** which is used for determining the nominal volume for water allocations which have had their nominal volume determined under new sections 84E, 84F or 84G.

New section 84K states how the irrigable area is determined for a water licence which is to be converted to a water allocation under subdivision 2. The irrigable area for a water licence is the area, in hectares, that is the **total** of:

- the **preliminary irrigable area** for the water licence worked out under section 84L; and
- if an **additional irrigable area** for the water licence is worked out under section 84M for the water allocation — the area worked out under 84M.

The irrigable area for a water licence is held in digital electronic form by the department and can be made available on request to the chief executive.

New section 84L states the process for determining the **preliminary irrigable area** for the land attached to a water licence on the commencement of this provision. The preliminary irrigable area for the water licence is the area, in hectares, that is the **sum of each of the following parts** of the land;

- if the licence allows the whole of a parcel of land to be irrigated using water taken under the licence—the part of the land that the chief executive decides, having considered geological mapping and spatial imagery of the land, is **land with alluvium**;
- if the licence allows the whole of a parcel of land to be irrigated using water taken under the licence—the part of the land that the chief executive decides, having considered geological mapping and spatial imagery of the land, is **land without alluvium** that has been irrigated, during the **relevant period**, using water taken under the licence from the land;
- if the licence allows only a part of a parcel of land to be irrigated using water taken under the licence—the part of the land.

However, the preliminary irrigable area for the water licence does not include the area of any part of the land attached to the water licence that has been included in the preliminary irrigable area of another water licence. Therefore, for when a nominal volume is determined under new sections 84E or 84F and a water allocation is converted, no more than 6ML per hectare will be held as water allocations for which these sections apply for any part of land which has been determined as irrigable area.

New section 84M states the process for working out the **additional irrigable area**. This section applies where the holder of a water licence to be converted to a supplemented

water allocation as stated in new section 84B, makes a submission under section 72 of the *Water Act 2000* about their proposed water allocation stated in the draft water entitlement notice released on 14 August 2019.

For the submission to be considered properly made for the purposes of determining whether **additional irrigable area** may be considered in determining the **irrigable area** for the proposed water allocation, the details provided by the holder of the water licence in the submission must state all of the following as evidence about the land which is subject to being determined as additional irrigable area, for this section called the relevant land:

- that the relevant land is owned by the licence holder but not attached to the water licence, was irrigated during the relevant period using groundwater taken from land attached to the water licence; and
- that the groundwater used on the relevant land was taken from the Central Lockyer Valley water supply scheme using works located on land attached to the water licence; and
- that the groundwater was conveyed to the relevant land using a pipeline or channel; and
- the area of the relevant land has not been included in the additional irrigable area for another water licence.

The additional irrigable area for the water licence is the total area, in hectares, of the relevant land, or the part of the relevant land, that the chief executives decides was irrigated during the relevant period in the way described in subsection (1)(b).

In deciding if the evidence provided in the submission is valid, the chief executive will review historical and current imagery to assess if irrigation has occurred on the relevant land, alluvial mapping to determine if the land is located on suitable agricultural land, additional works located on the land which do not take water from the Central Lockyer Valley water supply scheme that may be used for irrigating the land and review of land titles.

Amendments to part 7: Strategies for achieving outcomes (overland flow water)

Clause 31 replaces sections 85 to 87 of the water plan to better describe the management of overland flow water in the water plan area. The replacement sections are subject to the new definition of existing overland flow works as defined under clause 36 which replaces the definition of existing overland flow works. For the replacement sections, existing overland flow works means—

- works for taking overland flow water that were in existence on [the commencement of this amendment plan]; or
- works for taking overland flow water that were started, but not completed by [the commencement of this amendment plan]; or
- works that are a reconfiguration of existing overland flow works that do not increase the average annual volume of water taken by the reconfigured works, above the average annual volume taken using the existing works.

Generally, the intent of the replacement sections is consistent with those sections it is replacing with regards to limitations on how overland flow water may be taken in the water plan area without requiring an entitlement. However, the new section 85 clarifies that a water licence application made under section 107 of the *Water Act 2000* to take overland flow water must not be accepted. This ensures that there is no recourse for a landholder wanting to construct overland flow works inconsistent with section 86 of the plan, to apply under a process stated in the *Water Act 2000* which may result in a decision inconsistent with the water plan.

Replacement sections 85 to 87 also update particular references to legislation, remove aspects now dealt with in primary legislation and updates phrases to match the intended management outcomes with regards to particular types of overland flow storages.

Clause 31 also inserts a new section 88, which requires an owner of land on which authorised existing overland flow works are located, to notify of a reconfiguration of existing overland flow works. This section further details the intent of the replaced section 87 with regards to a change to existing overland flow works.

New section 88 states that if the owner reconfigures the existing overland flow works, the owner must give the chief executive notice, in the approved form, about the reconfiguration. If the owner gives the notice mentioned to the chief executive, and any further information the chief executive reasonably requires, the owner may continue to use the works to take overland flow water.

Insertion of new part 8: Accounting period

Clause 31 also inserts, a new section 89 which despite the previous replacement sections 85 to 88, does not deal with overland flow water. New section 89 states that the accounting period for the *Water Regulation 2016*, section 142(a), for a resource operations licence to take water from the Central Lockyer Valley water supply scheme is 1 January to 31 December.

Amendment to part 10: Implementing and amending this plan

Clause 32 omits a reference to a section which has been omitted under clause 20.

Amendments to Schedules

Amendment to schedule 3

Clause 33 amends the map in schedule 3 describing the implementation areas in the Lockyer Valley groundwater management area to remove implementation area 2, and replace it with implementation areas 2A and 2B, which now matches existing management arrangements in that area of the Lockyer Valley.

Amendment to schedule 5A

Clause 34 inserts 2 new maps into schedule 5A to describe the new trading zones for surface water as part 1 and the new trading zones for groundwater as part 2 in the Central Lockyer Valley water supply scheme.

Amendment to schedule 8

Clause 35 amends schedule 8 to insert new water allocation security objectives for surface water allocations granted in accordance with clause 22 of the water amendment plan, and new water allocation security objectives for groundwater allocations in accordance with clause 30.

More specifically for water allocations in a medium priority group to take surface water in the Central Lockyer water supply scheme:

- in Laidley Creek, the monthly supplemented water sharing index be not less than 35%;
- in Lockyer Creek, the monthly supplemented water sharing index be not less than 45%;
- on Morton Vale Pipeline, the monthly supplemented water sharing index be not less than 76.7%.

For water allocations in a high priority group on Morton Vale Pipeline zone in the Central Lockyer Valley water supply scheme, the monthly supplemented water sharing index be not less than 87.5%.

Clause 35 inserts a new part 3 to state the water allocation security objectives for water allocations to take groundwater. The performance indicator for the water allocation security objectives stated in new part 3 is the water maximum allowable volume, which means the total volume of supplemented groundwater that may be taken under all water allocations to take supplemented groundwater in the zone. For medium priority water allocations the maximum allowable volume for the zone is stated in Table 2 and for low priority water allocations the maximum allowable volume for the zone is stated in Table 3.

Amendments to schedule 15

Clause 36 omits particular definitions from the dictionary which were located in provisions which have either been omitted, amended or replaced.

Clause 36 also inserts new definitions into the dictionary to explain particular words and phrases located in provisions which are either replacement sections, sections subject to amendment or have been inserted.