

# Environmental Protection (Water and Wetland Biodiversity) Amendment Policy 2022

Explanatory notes for SL 2022 No. 125

made under the

*Environmental Protection Act 1994*

## General Outline

### Short title

*Environmental Protection (Water and Wetland Biodiversity) Amendment Policy 2022*

### Authorising law

Sections 26 and 33 of the *Environmental Protection Act 1994* (EP Act)

### Policy objectives and the reasons for them

The objective of the *Environmental Protection (Water and Wetland Biodiversity) Amendment Policy 2022* (Amendment Policy) is to amend the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019* (Water and Wetland Protection Policy) to establish new and updated environmental values (EVs) and water quality objectives (WQOs) for Queensland waters in:

- South East Queensland region (updates) and adjacent coastal waters;
- Burdekin, Don and Haughton region (new) and adjacent coastal waters (new); and
- Mackay and Whitsunday region (updates) and adjacent coastal waters.

The proposed amendment also addresses errata and other minor amendments, including:

- correcting an error at section 11(2)(a) and (b) of the Water and Wetland Protection Policy that has been the subject of legal advice as precluding the achievement of the policy intent of the section;
- prioritising and expanding the stated documents used to decide the indicators and water quality guidelines for an environmental value at section 8(3)(a); and
- amending the definition of the environmental value aquatic foods at section (6)(2)(e), to avoid possible misinterpretation.

EVs and WQOs apply to receiving waters, not point source emission objectives or treatment train emission objectives. The water quality of receiving waters reflects rural, urban and point

source emissions to waters, and locally relevant EVs and WQOs inform both statutory and non-statutory planning and decision-making, including report card reporting.

The Amendment Policy ensures that locally relevant EVs and WQOs inform regulatory decisions made under the *Environmental Protection Regulation 2019* and other statutory instruments. The EVs for waters under the Water and Wetland Protection Policy may also inform whether environmental harm under section 493A of the EP Act has been caused.

Regulatory decisions based on local EVs and WQOs will deliver better environmental, social and economic outcomes than the alternative application of national WQOs, that are blanket in nature and not based on any testing of local waters.

## **Achievement of policy objectives**

The Water and Wetland Protection Policy provides a framework for identifying locally relevant EVs and WQOs for specific waters through the development of documents which are listed in Schedule 1 of the Policy.

The Amendment Policy achieves the Water and Wetland Protection Policy objective of establishing new or updated EVs and WQOs for Queensland waters by listing documents in Schedule 1 of the Water and Wetland Protection Policy for the following regions (stated waters):

- South East Queensland region, comprising the tidal and non-tidal waters of the Albert, Bremer, Brisbane, Caboolture, Lockyer, Logan, Maroochy, Mooloolah, Nerang, Noosa, Oxley, Pimpama, Pine and Stanley rivers, Currumbin, Tallebudgera, Sandy, Six Mile, Wolston, Woogaroo and Goodna creeks, Bribie Island, Moreton Island and Stradbroke Island waters, Moreton Bay, Pumicestone Passage, and the Broadwater, and adjacent coastal waters;
- Burdekin, Don and Haughton region, comprising the tidal and non-tidal waters of the Burdekin, Bowen, Broken, Bogie, Belyando, Campaspe, and Suttor rivers, Don and Haughton rivers, Abbot Bay, Bowling Green Bay, Upstart Bay, and Edgecumbe Bay, and adjacent coastal waters; and
- Mackay and Whitsunday region, comprising the tidal waters of the O’Connell, Pioneer, and Proserpine rivers, Plane creek, Whitsunday Islands waters and adjacent coastal waters.

## **Consistency with policy objectives of authorising law**

The Amendment Policy is consistent with the objectives of the EP Act. The Amendment Policy helps to achieve the objectives of the EP Act by establishing EVs and WQOs to enhance or protect the EVs for Queensland waters.

## **Inconsistency with policy objectives of other legislation**

The Amendment Policy is consistent with the policy objectives of other legislation.

## Benefits and costs of implementation

The Water and Wetland Protection Policy provides policy direction. It informs regulatory assessment and decision-making made under the EP Act and other statutory instruments, including the assessment of environmental authorities, monitoring conditions, environmental impact assessments and compliance to protect and enhance water quality. These regulatory decisions assist the achievement of the object of the EP Act with respect to Queensland waters, whilst allowing for ecologically sustainable development.

The Amendment Policy does not add to the regulatory burden nor have significant adverse impact. Management of water quality with a goal of achieving the water quality objectives provides ecosystem health and socio-economic benefits for Queensland citizens. For example, managing water quality will protect aquatic ecosystems, ensure human health through reducing risks to drinking water supplies, protect biodiversity and ecosystem function, protect water quality for primary industries and fisheries, prevent increased costs for potable water treatment, and protect the visual and aesthetic amenity of the waterways.

## Consistency with fundamental legislative principles

The Amendment Policy is consistent with fundamental legislative principles.

## Consultation

Consultation for the above waters was completed between 2017 and 2022, in accordance the Water and Wetland Protection Policy.

Extensive consultation with community, industry and commerce was carried out pursuant to section 12(3)(a) of the Water and Wetland Protection Policy for the stated waters from 2017 and 2022 through the Department of Environment and Science's (DES) website and face-to-face meetings. Due to the COVID-19 requirements, virtual meetings were also conducted in 2020, 2021 and 2022.

Notification of the initial regulatory commencement of process was made through:

- Ministerial media release (13 March 2017);
- Queensland Government Gazette public notification (21 April 2017);
- Newspaper public notices in *The Courier-Mail* (22 April 2017) and regional newspapers (including *Townsville Bulletin*, 26 April 2017);
- DES's website; and
- emails to stakeholders, which included local governments, key industry bodies, environment and conservation group and First Nations peoples.

Documents containing draft EVs, WQOs and aquatic ecosystems mapping for the stated waters across all regions were made available at all consultation meetings.

Consultation was targeted to the broader community, through public notices and the DES's website, and targeted consultation with Aboriginal Nations, community catchment groups, environment peak bodies, industry peak bodies (including agriculture and sewage and water

utilities), local governments, the Australian Government and the regional natural resource management bodies across the respective regions.

Consultation included face-to-face meetings/workshops, virtual meetings and telephone discussions and associated follow-up actions between parties.

Additionally, DES briefed the Water Engagement Forum (WEF) hosted by the Department of Regional Development, Manufacturing and Water. WEF comprises peak local government, industry, and environment bodies, including for example Agforce, Local Government Association of Queensland, Queensland Resources Council, Queensland Farmers' Federation, SEQ Water, and World Wildlife Fund.

Follow-up one-on-one consultation was held with individual peak bodies or their members via meetings, workshops, teleconferences, emails, and direct contact.

All issues raised in consultation (formal submissions, emails, or advice at meetings) were considered and addressed in revisions, where relevant and appropriate.

Information received during consultation included additional water quality data, advice on waterway uses and values, and additional information on ecological and cultural values of waters. Water quality data made available during consultation were reviewed as part of the derivation of water quality objectives in the Amendment Policy. Advice on waterway uses and values informed updates to EVs, and aquatic ecosystems mapping which forms part of the Amendment Policy documentation.

There was general support for the development of EVs and WQOs to inform the future management of the stated waters.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation considered the draft Amendment Policy and advised it was unlikely to result in significant adverse impacts and that no further regulatory impact analysis was required.

## Notes on Provisions

### Section 1 Short title

This section cites the name of the policy as the *Environmental Protection (Water and Wetland Biodiversity) Amendment Policy 2022*.

### Section 2 Policy amended

This section states that the Amendment Policy amends the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.

### Section 3 Amendment of s 5 (Purpose)

This section includes a minor text amendment only.

### Section 4 Amendment of s 6 (Environmental values for waters)

This section clarifies the scope of the environmental value for human consumption of aquatic foods, namely:

- to encompass waters from which aquatic foods may be taken, and also waters where aquatic foods may be produced; and
- to define ‘aquatic foods’ as including include fish, shellfish and other animals, and plants.

### Section 5 Amendment of s 8 (Indicators and water quality guidelines for environmental values for waters)

Section 8 of the Water and Wetland Protection Policy provides a priority list of documents to be used to establish indicators and water quality guidelines for an applicable EV in circumstances where information is not provided in schedule 1 (or where waters have not been scheduled). The priority list in this section has been updated to reflect the most current and relevant national guidelines to decide the indicators and water quality guidelines for an EV where the WQOs for a given indicator for an EV are not specified in a schedule 1 document.

The listing of source documents includes sources applicable to a range of different EVs, and consideration of the relevant EV is required when reviewing the document list.

## **Section 6 Amendment of s 9 (When environmental values of water are protected)**

This section involves a minor text revision ('water' replaced by 'waters').

## **Section 7 Amendment of s 11 (Water quality objectives for waters)**

This section includes:

- updates to section numbers;
- clarification on indicators and water quality guidelines applicable for use as WQOs where information on a given indicator is not provided in schedule 1 documents;
- definitional clarification on stormwater treatment system (to which WQOs for EVs do not apply).

## **Section 8 Amendment of s 12 (Identifying environmental values etc. for waters)**

This update reflects new section numbers in the Water and Wetland Protection Policy.

## **Section 9 Amendment of s 15 (Management intent for waters)**

This minor text amendment improves clarity of interpretation.

## **Section 10 Amendment of sch 1 (Environmental values and water quality objectives for waters)**

Schedule 1 of the Water and Wetland Protection Policy provides an alphabetical list of all regions (and waters within those regions) for which EVs and WQOs have been established. This section amends Schedule 1 of the Water and Wetland Protection Policy to include new schedule 1 entries for:

- South-East Queensland region (amending schedule 1 documents)
- Mackay Whitsundays region (amending schedule 1 documents)
- Burdekin, Don and Haughton region (new) and adjacent coastal waters (new).

For access to all schedule 1 documents and mapping, and advice about accessing GIS datasets, refer to DES's website.

## **Section 11 Amendment of sch 2 (Dictionary)**

This section updates schedule 2 definitions pertaining to 'recognised entity' (updating Ministerial council membership details), and 'water quality objectives' (specifying that the objectives relate to an indicator).