

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

Explanatory notes for SL 2015 No. 99

Made under the

Water Act 2000

General Outline

Short title

Water Resource (Gulf) 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 (Gulf) Amendment Plan (No. 1) 2015 is to amend the Water Resource (Gulf) Plan 2007 to provide for new reserves of unallocated water in the Flinders River catchment and Gilbert River catchment.

Achievement of policy objectives

The Water Resource (Gulf) Amendment Plan (No. 1) 2015 provides for the allocation and sustainable management of surface water (including overland flow water) by—

- defining the availability of water in the plan area;
- providing a framework for sustainably managing water and the taking of water; and
- identifying priorities and mechanisms to deal with future demand for water.

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 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 (Gulf) Amendment Plan (No. 1) 2015 will provide the following benefits:

- provisions for new reserves of unallocated water to expand the irrigated agricultural industry in the Flinders and Gilbert River catchments; and
- environmental flow objectives in the Flinders and Gilbert River catchments to protect the health of natural ecosystems both under current levels of water resource development and from future development decisions made under the plan.

Funding for the development and implementation of the water resource plan and the resource operations plan for the Gulf has been allocated to the Department of Natural Resources and Mines. Accordingly, costs of the plans have been budgeted for and will not change the present cost to government of administering the *Water Act 2000*.

Consistency with fundamental legislative principles

The Water Resource (Gulf) 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 affected by the changes have been consulted in respect of the Water Resource (Gulf) Amendment Plan (No. 1) 2015.

Local government authorities in the area received a copy of the draft amendment plan for display as required under section 100(7) of the *Water Act 2000* and were invited to comment. A public notice was published in local papers outlining that the draft amendment plan had been released and where further information could be located and how to make a submission. Public information sessions were held at Cloncurry, Richmond and Georgetown to explain the provisions of the draft amendment plan.

No changes of substance were required as a result of consultation on the draft amendment plan. Further information about the consultation process and outcomes of community consultation are contained within the 'Gulf water resource plan amendment—Consultation Report, August 2015'.

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Notes on Provisions

Short Title

Clause 1 specifies the short title to the subordinate legislation as the Water Resource (Gulf) Amendment Plan (No. 1) 2015.

Plan amended

Clause 2 states that this water resource plan amends the Water Resource (Gulf) Plan 2007.

Amendment of s 8 (Declaration about watercourse—Act, s 1006(2))

Clause 3 inserts a new section 2A into section 8 to allow an owner of land within 1 km of a prescribed watercourse may take water that is water in the watercourse for stock or domestic purposes.

The 1 km distance is measured from the middle thread distance of the watercourse. The middle thread distance is determined as being equal distance between the high banks of the watercourse.

Section 2A and section 3 have been renumbered as section 3 and 4.

Amendment of s 11 (Water to which this plan applies)

Clause 4 inserts the word underground to provide clarity.

Replacement of ss 12—16

Clause 5 provides for the outcomes of the Water Resource (Gulf) Amendment Plan (No. 1) 2015 to be specified under the following—economic, social and ecological outcomes. Outcomes are broad goals for the plan area and may include specific values or natural assets.

The economic outcome to provide for the taking of water in Lake Corella and Lake Mary Kathleen was amended to remove the reference to Lake Corella as the unallocated water from Lake Corella has been granted.

A new ecological outcome has been included 15(1)(j) to provide for the maintenance of flows in the Gilbert River to provide brackish estuarine habitat suitable for juvenile prawn development.

Amendment of ch 4 hdg (Performance indicators and objectives for surface water in Upper Leichardt river subcatchment area)

Clause 6 states that the wording Upper Leichardt River subcatchment area is to be removed. Performance indicators and objectives for surface water now also apply in the Flinders River catchment and Gilbert River catchment.

Amendment of s 17 (Performance indicators for environmental flow objectives)

Clause 7 provides for a new low flow objective—the proportion of no flow days and a performance indicator to assess for periods of wet season flow—median wet season flow.

The references to node 1 have been removed as performance indicators have been developed for nodes in the Flinders River catchment and Gilbert River catchment.

Amendment of s 18 (Environmental flow objectives)

Clause 8 provides for the amendment to s 18 to state that environmental flow objectives for the plan area are listed in Schedule 5.

Amendment of ch 5, pt1, div 2, sdiv 3 hdg (Dealing with unallocated water under resource operations plan generally)

Clause 9 provides for the removal of the words, under resource operations plan generally. These words have been removed as the process for dealing with unallocated water is now stated in the Water Resource (Gulf) Plan 2007.

Replacement of ss 28 and 29

Clause 10 provides for a breakdown of the three types of unallocated water and the locations within the plan area where those reserves may be made available. The process for granting unallocated water is stated in the Water Regulation 2002, part 2, division 1C.

Amendment of s 30 (Preparing and implementing process in resource operations plan generally)

Clause 11 provides for how to prepare and implement the process for granting unallocated water. Section 1 has been removed as the process is stated in the Water Resource (Gulf) Plan 2007. Section 3 has been removed as the requirement for a land and water management plan was removed from the *Water Act 2000* in 2013. Sections 2 and 4 have been renumbered sections 1 and 3.

Amendment of s 32 (Purpose for which Indigenous unallocated water may be granted)

Clause 12 includes the Flinders River catchment and Gilbert River catchment to the catchments where unallocated water is held as an indigenous reserve. An error in the naming of Morning Inlet catchment area has been amended.

Amendment of s 33 (Volumetric limits for indigenous unallocated water)

Clause 13 provides for the replacement of the term licences with entitlements. The term entitlements covers water licences, interim water allocations or other authorisations to take water.

Amendment of s 34 (When strategic unallocated water may be granted)

Clause 14 provides for the removal of the reference to Lake Corella as the unallocated water for Lake Corella has been granted.

Amendment of s 35 (Volumetric limits for strategic unallocated water in Lake Corella or Lake Mary Kathleen)

Clause 15 provides for the removal of references to Lake Corella as the unallocated water for Lake Corella has been granted.

Amendment of s 36 (Volumetric limits for strategic unallocated water is granted for State purpose)

Clause 16 provides for the replacement of the term licences with entitlements. The term entitlements covers water licences, interim water allocations or other authorisations to take water.

Amendment of s 37 (Limitations on granting unallocated water from general reserve)

Clause 17 provides for the replacement of the term licences with entitlements. The term entitlements covers water licences, interim water allocations or other authorisations to take water.

Section 37 has been amended to reflect a change to the *State Development and Public Works Organisation Act 1971* (section 26) where the term 'significant project' was changed to 'coordinated project'. The water is only granted for the life of the project and at the conclusion the water returns to the strategic reserve.

Amendment of s 39 Volumetric limits for general unallocated water

Clause 18 provides for the replacement of the term licences with entitlements. The term entitlements covers water licences, interim water allocations or other authorisations to take water.

Insertion of new s39A

Clause 19 provides for pass flow conditions to be included on water entitlements granted from the general unallocated water reserve in the Flinders and Gilbert river catchments. The pass flow condition(s) must provide for flows consistent with the environmental flow objectives stated in schedule 5.

Water entitlements granted from the general unallocated water reserve in the Flinders and Gilbert river catchments must also state a condition stating the transfer of water under the entitlement must be done in accordance with the group B water transfer rules. The group B water transfer rules are stated in the Gulf Resource Operations Plan.

Assessing impact of decisions

Clause 20 provides for the prescribed assessment computer program to be used to assess consistency with the environmental flow objectives and water allocation security objectives.

For the Flinders and Gilbert River catchments the prescribed assessment computer program is the Source computer program. For the Leichhardt River catchment the prescribed assessment computer program is the IQQM computer program.

Amendment of s 43 (Accepting and deciding particular applications to interfere with water)

Clause 21 provides for a water licence application for interference or increase in interference with, surface water in a watercourse, waterhole, lake or spring to be accepted and dealt with where the proposed interference, or increase in interference, is for—

- a pumping pool of less than 10ML capacity; or
- related to the release of unallocated water under the process stated in section 29; or
- to provide improved security for town water supplies.

If the application is to provide for improved security for town water supplies the chief executive must be satisfied that approving the application would not adversely impact other water users or the outcomes of the plan and that there is a demonstrated need for an increased reliability of the water supply.

If the application is for a water licence from the general reserve in the Flinders River or Gilbert River catchment area, if the application is granted the water licence must include a pass flow condition.

Insertion of new s 56

Clause 22 provides authorisation for an owner of land to take water from a watercourse (other than a part of a watercourse used for distribution of water by a scheme licence holder), lake, spring or aquifer for stock purposes or domestic purposes in any way without an entitlement under section 20(5) of the *Water Act 2000*. This clause allows land owners who are non-riparian to a watercourse, lake, spring or aquifer access to water.

Amendment of s 83 (Relationship with *Sustainable Planning Act 2009*)

Clause 23 provides for works that are for stock and domestic purposes to be self-assessable development and do not require a development permit but must conform to the relevant self-assessable code. This is to correct the reference to the *Sustainable Planning Act 2009* to be schedule 3, part 2, table 4, item 1(b)(i).

Replacement of s 95 (Implementation schedule)

Clause 26 states the proposed arrangements for implementing the plan. The water resource plan will be implemented by the resource operations plan which will be gazetted concurrently with the plan.

Omission of s 97 (Amending or replacing plan)

Clause 27 provides for the removal of section 97 as this information is in the *Water Act 2000*.

Replacement of sch 1 (Plan Area)

Clause 26 provides a new plan area map which shows the area to which the plan applies and the location of nodes.

Amendment of sch 4 (Nodes)

Clause 27 provides for the addition of nodes 6 and 7 to the table in Schedule 4.

Replacement of sch 5 (Environmental flow objectives)

Clause 28 provides for the inclusion of a new low flow objective, the proportion of no flow days, for nodes 6 and 7. A wet season flow objective has also been included for nodes 6 and 7.

Replacement of sch 6A (Total volumes for indigenous unallocated water)

Clause 29 provides for the inclusion of the Flinders River catchment and Gilbert River catchment to the table in Schedule 6A and the available volumes of indigenous unallocated water in these catchments.

Amendment of sch 7 (Total volumes for strategic unallocated water)

Clause 30 provides for the removal of references to Lake Corella as the unallocated water for Lake Corella has been granted. The volumes available for the Finders River catchment, Nicholson River subcatchment area and the Norman River catchment area have been amended to remove the volumes of water that have been granted in these areas.

Amendment of sch 8 (Total volumes for general unallocated water)

Clause 31 provides for the volume of general unallocated water available in the Flinders River catchment and the Gilbert River catchment.

Amendment of sch 13 (Dictionary)

Clause 32 provides for the removal of defined terms that are no longer used in the plan and the insertion of new defined terms used in the plan.