

**QUEENSLAND GOVERNMENT SUBMISSION
TO
THE SENATE INQUIRY
INTO
WATER LICENCES AND RIGHTS**

1 October 2009

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Overview

Queensland has river and groundwater systems in tropical, subtropical and low rainfall landscapes. Most of its rivers are largely natural in flow and many are ephemeral, running only after major rainfall events. Queensland has developed water planning and management concepts to deal with a broader range of contexts than exists in other Eastern Australian States. The appendix attached to this submission provides an overview of Queensland's water entitlement and planning framework and the use of related terminology.

Queensland's processes for water planning and the issuing of water rights are designed to comply with national approaches, and are recognised by the National Water Commission as being compliant with the requirements of the National Water Initiative.

Water Resource Plans in the Queensland section of the Murray-Darling Basin establish a cap on diversions and are 'no-growth' plans, and next generation plans will conform to the Murray-Darling Basin Plan. The replacement of existing authorisations with new and better specified entitlements is consistent with the National Water Initiative, and will not increase the amount of water that can be taken for consumptive use. Water plans are based on the best available science and are progressively reviewed as more information becomes available.

The potential purchase of water rights by the Commonwealth in Queensland is set against the backdrop of a nationally consistent framework for the management of water rights that provides for a sustainable balance between the provision for environmental flows and the provision of secure entitlements for consumptive use.

Specific comments in relation to the Terms of Reference for the Inquiry are contained in the following sections.

Part A. The issuing and sustainability of water licences under any government draft Resource Plans and Water Resource Plans

Murray–Darling Basin Plans

Moratoriums on the issuing of new water licences in the Queensland Murray–Darling Basin have existed since 1995 and on overland flow diversions since 2001. Controls since those dates have limited the issuing of additional entitlements or the construction of new overland flow capture structures.

Water Resource Plans and Resource Operations Plans have been finalised for the Border Rivers, Warrego, Paroo, Nebine, Upper and Middle Condamine and Moonie catchments within the Queensland section of the Murray–Darling Basin. These plans have converted existing water entitlements into water allocations which are tradable and separate from land and this has been undertaken in accordance with sections 28 to 34 (Water Access Entitlements) of the National Water Initiative. Importantly, the Queensland Murray-Darling Basin Water Resource Plans are "no growth" plans.

The Commonwealth *Water Act 2007* recognises the Water Resource Plans for all Queensland Murray–Darling Basin catchments as 'Transitional Water Resource Plans' until their expiry in 2015, after which amended plans will need to conform to

the Murray-Darling Basin Plan.. A Resource Operations Plan made under, or for the purposes of, the Water Resource Plan is expected to form part of a transitional Water Resource Plan under the Commonwealth *Water Act 2007*.

Conversion of Existing Entitlements

One of the main functions of a Resource Operations Plan (which implements the Water Resource Plan) is to provide for the conversion of existing entitlements into tradable water allocations. The conversion of existing entitlements into water allocations transitions the existing entitlements into an NWI compliant framework. The conversion establishes a tradable entitlement that is separate from land. This allows water from the consumptive pool to be moved to its highest value uses, subject to trading rules set out in the Resource Operations Plan.

This water planning framework also allows for the similar treatment of all entitlements, with Water Resource Plans for the Murray–Darling Basin catchments recognising all licences including those which have not been activated (‘sleeper entitlements’). All Queensland Murray–Darling Basin plans, except for the Condamine and Balonne, have been established on the principle that sleeper entitlements are treated on an equal basis to activated licences. The Condamine and Balonne Water Resource/Resource Operations Plan is the only plan in South West Queensland to treat sleeper entitlements differently by converting them to water allocations at a reduced volume, and imposing high flow conditions by comparison with the activated licences. The activation of these entitlements has been accounted for in the hydrologic modelling for each valley.

Regulation and Management of Overland Flow

The diversion of overland flow is an important management issue in the Queensland Murray–Darling Basin. Under the Queensland Murray–Darling Basin Water Resource Plans, the taking of overland flow water is authorised for ‘existing works’ as defined in relevant Water Resource Plans. This means that the holders of land on which there are ‘existing works’ have a right to water which was established at the time the plan was approved.

The water plans detail the triggers for improving the specification of that right, from an authority established under the water plan and specified by reference to works, to a water licence specified in terms of volumes and related attributes. All Queensland Murray–Darling Basin plans have this provision which limits growth in overland flow extraction. Re-specification of the entitlement leaves the permitted level of allocation unchanged.

In the Lower Balonne area, under the Condamine and Balonne Water Resource Plan it is proposed to change the rights based on ‘existing works’ to licences that authorise the amount of overland flow that can be taken. This will be subject to the finalisation of the Resource Operations Plan for the Lower Balonne area and will enable the state to regulate the take of water in the Lower Balonne by imposing a high level of control on that take. The process for issuing these licences requires the works to be certified by independent registered professional engineers. The licences will be tied to parcels of land and will not be tradable because they are linked to actual works. The licences will contain terms that limit the amount of overland flow that can be taken as outlined in the Water Resource Plan. It should be noted that, similar to other catchments, the conversion of existing authorisations based on ‘existing works’, to water licences

based on volumes and related attributes will not result in an increased level of allocation.

The decision to undertake this conversion has already been made in the *Water Resource (Condamine and Balonne) Plan 2004*. This plan is compliant with the National Water Initiative and is a transitional plan under the Commonwealth *Water Act 2007*.

Diversion Limits

Diversion caps for Queensland valleys under the Murray Darling Basin Agreement of the Commonwealth *Water Act 2007* (Schedule 1) are developed and implemented as part of the monitoring, auditing and reporting provisions of the Resource Operations Plan for each valley. Resource operations plans for the Border Rivers, Moonie, Warrego and Nebine valleys have been finalised and the diversion caps for these valleys have been set. The cap for the Condamine and Balonne valley will be set following completion of the Resource Operations Plan for the Lower Balonne.

Overall Queensland's valley plans ensure that development associated with the take of water does not increase beyond the levels set by the existing water entitlements. The rules in these plans have been developed to provide protection of the riverine environment while giving water users a secure title in water. This approach underpins the sustainable management and use of water resources for each Queensland Murray-Darling Basin valley.

Environmental Provisions

Under Queensland's water planning framework, environmental water is managed through a 'rules based approach'. The rules are developed under statutory Water Resource Plans and Resource Operations Plans with a view to protecting key ecological assets and the riverine environment. For example, a specified end of system flow can be achieved by setting rules about the release of water from storages and through rules about the times and flow conditions under which private extraction can occur. Environmental water under this framework is not tradable.

All Queensland decisions on water plans are based on the best science available at the time of their development and the science is progressively reviewed as additional information becomes available.

Part B. The effect of relevant agreements and Commonwealth environmental legislation on the issuing of water licences, trading rights or further extraction of water from river systems

The Queensland *Water Act 2000* provides for the sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water. Catchment based Water Resource Plans are a key means to deliver sustainable management. Water Resource Plans are developed to complement parallel state and national initiatives and agreements. They are consistent with the National Water Initiative.

The Water Resource Plans for the Queensland portion of the Murray-Darling Basin also reflect the:

- Murray-Darling Basin agreements and commitments, including the Murray-Darling Basin Salinity Management Strategy and implementing a cap on the taking of water; and
- Water sharing agreements and commitments between Queensland and New South Wales.

In addition, the Queensland Water Resource Plans have regard to applicable national and international conventions. For example, the *Water Resource (Condamine and Balonne) Plan 2004* contains rules to improve water availability for bird breeding in the Narran Lakes, consistent with obligations under the Convention on Wetlands of International Importance (the ‘Ramsar Convention’).

The *Water Act 2000* requires the Minister, during the life of the plans, to prepare reports on the plans addressing whether the plan’s outcomes are being achieved and whether objectives continue to be appropriate. The reporting on the performance of Queensland’s Water Resource Plans is acknowledged by the National Water Commission in the Second Biennial Assessment of the National Water Initiative as a positive element of Queensland’s water management framework.

Murray Darling Basin Cap

The Murray Darling Basin Agreement exists as Schedule 1 to the *Commonwealth Water Act 2007*. Under the Agreement caps are set on diversions. The valley caps to be applied to Queensland are determined following the completion of the water planning process for each of Queensland’s valleys in the Murray Darling Basin. Queensland’s diversion caps are developed and implemented as part of the monitoring, auditing and reporting provisions of the Resource Operations Plan for each valley.

Resource operations plans for the Moonie, Warrego, Paroo and the Nebine valleys have been finalised. The diversion caps for these valleys have been set and in May 2007, were approved by the Murray Darling Basin Ministerial Council. The cap proposal for the Border Rivers valley has been endorsed by the Murray Darling Basin Authority (MDBA) following finalisation of the Resource Operations Plan for that valley.

The Murray Darling Basin Agreement requires the Independent Audit Group of the MDBA to audit the performance of each State and Territory in their efforts to implement their caps. It is expected that once the Lower Balonne Resource Operations Plan is finalised, Queensland will submit the cap for the Condamine and Balonne valley to the Independent Audit Group of the MDBA for approval.

Part C. The collection, collation and analysis and dissemination of information about Australia’s water resources, and use of such information in the granting of water rights

Queensland monitors stream flow at gauging stations located throughout the state, including catchments of the Murray Darling Basin. Stream flow information is collected on a regular basis, with gauging stations being rated (calibrated) as necessary. Gauging station information is captured automatically on to logging equipment.

Stream flow information is checked, collated and stored in Hydstra, a system used world-wide for such data. Collection, collation and storage of information is in accordance with a quality management system (ISO 9001). The gauging station information is disseminated to the public on request or is accessible from the appropriate website.

Gauging station information is also used by technical personnel for hydrologic modelling of catchments. These models are used during Queensland's water resource planning process. This process, amongst other matters, identifies any water available for the future granting of water rights and the conversion of water licences to tradable water allocations. Water allocations sit on the Queensland Water Allocation Register, while water licences are located in the Water Management System.

The National Water Initiative commits Queensland to a variety of actions to improve the way water data is shared between jurisdictions, and to the development of a national water accounting framework.

Queensland has actively participated in a national stock take of jurisdictional water accounting systems, and is working with other jurisdictions to develop a national water accounting framework supported by consistent water accounting standards. The framework will include water market, water resource, and water for the environment accounting. In order to facilitate the development of the national framework, Queensland has initiated a pilot project based on the Pioneer Valley catchment to test the validity of the proposed national framework and standards.

Part D. The issuing of water rights by the states in light of Commonwealth purchases of water rights

Queensland has met its commitments under the National Water Initiative to prepare water plans that make provision for the environment and introduce secure and tradable water entitlements for all Queensland Murray-Darling catchments through the preparation of statutory Water Resource Plans under Queensland's Water Act 2000.

Each of these plans establishes a cap on the consumptive use of the resource. To implement this cap on diversions, Resource Operations Plans have been, or are in the process of being finalised, allowing for the conversion of Queensland's existing authorisations into volumetrically limited water access entitlements or licences.

The replacement of existing authorisations with new and better specified entitlements meets one of the objectives to the National Water Initiative, without increasing the amount of water that can be taken consumptively. The Commonwealth is now able to stand in the market as a buyer of these tradable entitlements, secure in the knowledge that the entitlements represent a share of the consumptive pool of water within the catchment, and that the rules established under the Water Resource Plans will prevent growth in entitlements to divert water.

Appendix

Queensland Water Planning

The Queensland *Water Act 2000* ('the Act') sets out the water entitlement and planning framework in Queensland. Water Resource Plans are the fundamental water allocation planning instrument which 'advance the sustainable management of water' (the Act, s38) by establishing a framework to share water between human and environmental needs. These plans are implemented through Resource Operations Plans which set the day to day operational rules for water management and must be consistent with the Water Resource Plan.

The sustainability of water entitlements is ensured by all Water Resource Plans being consistent with Chapter 2 of the Act. The purpose of this chapter is to "advance sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water" [s10(1)] which amongst other things requires that sustainable water management –

- "allows for the allocation and use of water for the physical, economic and social well being of the people of Queensland and Australia within limits that can be sustained indefinitely" [s10(2)(a)].
- "protects the biological diversity and health of natural ecosystems" [s10(2)(b)].
- "contributes to the economic development of Queensland in accordance with the principles of ecologically sustainable development" [s10(2)(c)(ii)].
- "contributes to protecting water, watercourses, lakes, springs, aquifers, natural ecosystems and other resources from degradation and, if practicable, reversing degradation that has occurred" [s10(2)(c)(iv)].

In addition all Queensland water plans are acknowledged by the National Water Commission to be National Water Initiative compliant plans, and therefore to comply with the environmental provisions of that agreement.

Queensland has completed water planning activities (water resource and Resource Operations Plans) in the majority of the catchments in the state. In two of the catchments, the Fitzroy and Cooper Creek, second generation plans are presently being prepared.

Queensland Usage of Terms

Given the different types of terminology used in the various jurisdictions it is useful to define the types of water that are managed and the water entitlement terms which are used in Queensland.

Surface water in Queensland is divided into two separate categories – watercourse water and overland flow.

Watercourse water flows in a watercourse which is defined in the Queensland *Water Act 2000* as being a river, creek or stream in which water flows permanently or intermittently—

- in a natural channel, whether artificially improved or not; or

- in an artificial channel that has changed the course of the watercourse but only if upstream and downstream limits have been defined through a regulation

A watercourse also includes the bed and banks and any other element of a river, creek or stream confining or containing water.

In some areas the distinction between a watercourse and a non watercourse is easy to identify whereas in some areas (such as the channel country) it is more complicated.

Overland flow water is defined as being water, including floodwater, flowing over land, otherwise than in a watercourse or lake—

- after having fallen as rain or in any other way; or
- after rising to the surface naturally from underground.

Overland flow does not include—

- water that has naturally infiltrated the soil in normal farming operations, including infiltration that has occurred in farming activity such as clearing, replanting and broadacre ploughing; or
- tailwater from irrigation if the tailwater recycling meets best practice requirements; or
- water collected from roofs for rainwater tanks.

Overland flow water in Queensland is essentially all the water that is not in a watercourse and includes floodwater that may have flowed out of a watercourse and runoff from land prior to it reaching a watercourse.

A water ‘authority’ is used to describe the approval held by an owner of overland flow works that has notified the department about those overland flow works in accordance with the provisions of the applicable Water Resource Plan. It permits the owner to legally continue to use those works as long as they were constructed prior to the applicable moratorium.

A water ‘licence’ is an approval to take water granted under the Act and permits the taking of water from a watercourse, or as overland flow. Conditions are attached to these licences which may include flow conditions, maximum rates of take, maximum pump sizes, storage conditions or any other conditions that may be applied. Licences are attached to a specific location and are generally not tradable.

With the exception of overland flow licences, in order to ensure compliance with the National Water Initiative, water licences are usually converted into water allocations.

A water ‘allocation’ is a National Water Initiative compliant entitlement which defines the holder’s share of the water resource. It may comprise a volumetric maximum rate of take, nominal volume, volumetric limit, flow conditions and other access conditions. Water allocations are separate from land, tradable and have the highest level of security of any water product in Queensland.

The conversion of water licences into water allocations occurs through the water planning process. Most of these conversions have already taken place in Queensland.

Glossary

Authorisation: an allocation, interim allocation, licence, permit or other authority to take water given under either the *Water Act 2000* or a previous Act, other than a permit for stock or domestic purposes.

Authority: an authorised activity under a Water Resource Plan, for example an overland flow authority.

Entitlement: an allocation, interim allocation or licence.

Licence: an authorisation to take or interfere with water. A licence, unlike a water allocation is attached to land.

Overland flow works: works that either directly take or are used to divert overland flow water to allow it to be taken. Examples are dams, pumps, diversion banks, channels whose prime purpose is the taking of overland flow water for use.

Permits: authorisations used to grant short term access to water, for example; mineral or petroleum exploration, road construction, etc.

Resource operations plan (ROP): a plan developed to implement a Water Resource Plan. It contains more operational detail than the Water Resource Plan.

Stock and domestic: the basic right as stipulated in the *Water Act 2000* (also known as 'riparian right') of an owner of land adjoining a watercourse, lake or spring, to take from that water for stock or domestic purposes. This stock and domestic allowance is separate from an entitlement.

Supplemented: refers to water that is supplied from storage and release infrastructure such as a weir or dam that is operated by a water supply authority. A supplemented system is known in some jurisdictions as a 'regulated system'.

Unsupplemented: refers to water that is not supplemented water and is available as 'run of the river' flows. Unsupplemented water is also known in some jurisdictions as 'unregulated supply'.

Water allocation: a tradable entitlement to take water. Water allocations are separate from land and registered on a water allocation register.

Water harvesting: extraction of water from an unsupplemented system by the holder of a water entitlement.

Water Resource Plan (WRP): a plan for the management of water developed in accordance with the *Water Act 2000*. It sets the strategic rules for the management of water in a defined area and is implemented through a Resource Operations Plan.