State code 10: Taking or interfering with water

Purpose statement

The purpose of this code is to ensure sustainable management of water by ensuring that development:

1. maintains:
   a. natural ecosystem processes;
   b. riverine environments;
   c. **underground water** systems;
   d. physical integrity of **watercourses**;
2. does not result in an adverse impact on:
   a. connectivity between **underground water** and water in a **watercourse**, **lake** or **spring**;
   b. property of others;
   c. the water security of other users and their access to the water resource;
3. minimises the volume of **overland flow water** taken, consistent with the development;
4. minimises the take of **contaminated agricultural run-off water**;
5. in the Queensland Murray Darling Basin, allows for the capture of **contaminated agricultural run-off water** and release of water when an **acceptable water quality** is achieved.

Using this code

The assessment benchmarks for this code comprise:

- a purpose statement which identifies the overall intent of the code;
- performance outcomes which set benchmarks to achieve the purpose statement of the code;
- acceptable outcomes which identify one way to achieve the relevant performance outcome.

Development complies with the code where:

- it complies with the acceptable outcomes for the performance outcome; or
- it complies with all the performance outcomes, where not complying with the acceptable outcomes; or
- development does not meet relevant performance outcome(s) and SARA determines, on balance, that the development complies with the purpose statement.

This code also includes the glossary of terms for definitions relevant to this code and reference documents; including the guideline **State Development Assessment Provisions Guidance Material: State code 10: Taking or interfering with water**, which provides direction on how to address this code.

Performance outcomes and acceptable outcomes

Table 10.1: Development and relevant provisions of the code

Development	Relevant provisions of the code
For works that take or interfere with water in a **watercourse**, **lake** or **spring**	Table 10.2 – General: PO1 – PO4
For works that take or interfere with **underground water**	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Underground water**: PO5 – PO6
For works that take **overland flow water**, where prescribed by regulation under the *Water Act 2000*	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water**: PO7 – PO8
For works that take **overland flow water**, where the works are reconfiguring **existing works**	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water**: PO7 – PO8 Table 10.2 – Reconfiguring **existing works**: PO9 – PO12
For works that take **overland flow water** in a limited catchment area identified in a **water plan** Note: Limited catchment areas are listed in table 10.3.	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water**: PO7 – PO8 Table 10.2 – Limited catchment area: PO13
For works that take **overland flow water** which is **contaminated agricultural run-off water**	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water**: PO7 – PO8 Table 10.2 – **Contaminated agricultural run-off water**: PO14 – PO15
Contaminated agricultural run-off water in a Queensland Murray Darling Basin catchment	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water:** PO7 – PO8 Table 10.2 – **Contaminated agricultural run-off water**: PO14– PO16

Development	Relevant provisions of the code
For works that take **overland flow water** as part of an **environmentally relevant activity** or under an **environmental authority**	Table 10.2 – General: PO1 – PO4 Table 10.2 – **Overland flow water**: PO7 – PO9 Table 10.2 – **Environmentally relevant activity**: PO17
For works that take **overland flow water**, incidental to capturing **coal seam gas water**	Table 10.2 – General: PO1 – PO4 Table 10.2– **Overland flow water**: PO7 – PO8 Table 10.2 – **Coal seam gas water**: PO18
For works that take **overland flow water**, under a **water entitlement**	Table 10.2– General: PO1 – PO4 Table 10.2– **Overland flow water**: PO7 – PO8
For works that take **overland flow water** for the purpose of **water sensitive urban design**, for developments in urban areas	Table 10.2– General: PO1 – PO4 Table 10.2– **Overland flow water**: PO7 – PO8

Table 10.2: All development

Performance outcomes	Acceptable outcomes
General	
PO1 Works do not cause an unacceptable impact on natural ecosystems.	No acceptable outcome is prescribed.
PO2 Works do not cause an unacceptable impact on other users' ability to access the resource.	No acceptable outcome is prescribed.
PO3 Works do not cause an unacceptable impact on the physical integrity of the **watercourse, lake or spring**.	No acceptable outcome is prescribed.
PO4 Works are consistent with any of the following, to the extent they are relevant to the proposed development: 1. a **water plan**; 2. a **water management protocol**; 3. a moratorium notice issued under the *Water Act 2000*.	No acceptable outcome is prescribed.
Underground water	
PO5 Works maintain the natural ecosystem processes of the **underground water** system.	No acceptable outcome is prescribed.
PO6 Works do not unacceptably impact on connectivity between **underground water** and water in a **watercourse**, **lake** or **spring**.	No acceptable outcome is prescribed.
Overland flow water	
PO7 Works to take **overland flow water** are for one of the following: 1. for an activity prescribed by regulation under the *Water Act 2000*; or 2. for reconfiguring **existing works**; or 3. in a **limited catchment area** identified in a **water plan**; or 4. for **contaminated agricultural run-off water**; or 5. part of an **environmentally relevant activity** or under an **environmental authority**; or 6. incidental to capturing **coal seam gas water**; or 7. consistent with a **water entitlement**; or 8. for the purpose of **water sensitive urban design**; for developments in urban areas.	No acceptable outcome is prescribed.
PO8 Works are located, constructed and operated in a way that do not adversely impact on neighbouring properties.	**AO8.1** Works are contained within the property boundaries. AND **AO8.2** At full supply level, the area inundated is contained within the property boundaries.

Performance outcomes	Acceptable outcomes
	AND **AO8.3 Bywash** resulting from the works and any water diverted away from contaminated areas exits the property as close as practicable to the same location at which it exited the property boundary prior to construction of the works.
Reconfiguring Existing works	
PO9 Development altering existing works do not increase the overall take of **overland flow water**.	**AO9.1** Development altering existing works must not result in an increase to any of the following: 1. the capacity of the works to store water; or 2. the rate at which the works take water; or 3. the average volume of water taken by the works.
PO10 Works do not involve reconfiguration of natural water bodies or bunded areas.	No acceptable outcome is prescribed.
PO11 Works do not involve reconfiguration of the storage capacity of any of the following: 1. a **lake** that was not used for irrigation or other **intensive stocking** or production; or 2. land being used for irrigated or dryland agriculture or areas surrounded by **levees** designed to prevent the land becoming inundated; or 3. naturally occurring infield storages.	No acceptable outcome is prescribed.
PO12 New works are located within the **same premises** as the **existing works**.	No acceptable outcome is prescribed.
Limited catchment area	
PO13 In the **limited catchment areas**, any works for storing water are: 1. not larger than necessary for storing water other than **overland flow water**; or 2. designed to take **floodwater** overflowing from any adjacent **watercourse**.	**AO13.1** In the limited catchment areas, the **incidental take of overland flow water**: 1. is located within the sub-catchment/management area listed in table 10.3, column 2 for the relevant limited catchment area; and 2. is stored in a local catchment area that is less than or equal to the area of the limited catchment area specified in table 10.3, column 3.
Contaminated agricultural run-off water	
PO14 Contaminated agricultural run-off water is captured and stored using existing works unless additional storage is required.	No acceptable outcome is prescribed.
PO15 Works to take **contaminated agricultural run-off water**: 1. are not be larger than required to contain **contaminated agricultural run-off water**; and 2. allow for water that is not **contaminated agricultural run-off water** to be passed through the works.	No acceptable outcome is prescribed.
Contaminated agricultural run-off water in a Queensland Murray Darling Basin catchment	
PO16 Works to contain **contaminated agricultural run-off water** in a **Queensland Murray Darling Basin catchment**: 1. do not increase the volume of **overland flow water** taken in a **water year**; and 2. allow for the release of water when an **acceptable quality of water** is achieved.	No acceptable outcome is prescribed.
Environmentally relevant activity	
PO17 Works only capture the volume of **overland flow water** necessary for the operation of the	No acceptable outcome is prescribed.

Performance outcomes	Acceptable outcomes
environmentally relevant activity or **environmental authority** under the *Environmental Protection Act 1994.*	
Coal seam gas water	
PO18 Works for coal seam gas water: 1. are not larger than required to store **coal seam gas water** for the **beneficial use** of the resource under chapter 8 of the *Waste Reduction and Recycling Act 2011*; 2. are designed to take **floodwater** from any adjacent **watercourse**; 3. are designed to contain **coal seam gas water** that could be stored in an existing alternative storage.	No acceptable outcome is prescribed.

Reference tables

Table 10.3: Limited catchment area parameters

Column 1: Water plan area	Column 2: Sub-catchment/ management area	Column 3: Area of local catchment
Fitzroy Basin	Fitzroy, Lower Mackenzie, Upper Mackenzie, Lower Dawson, Upper Dawson, Isaac Connors, Nogoa and Comet	250 hectares
Burnett Basin	Coastal Burnett Overland Flow Area	25 hectares

Reference documents

Department of Regional Development, Manufacturing and Water, State Development Assessment Provisions Guidance Material: State code 10: Taking or interfering with water

Healthy Waters Management Plans

Queensland Government Business and Industry Portal 2015, Overland flow works that require certification

State of Queensland 2016, Code of practice for the release of stored water from privately owned farm storages to receiving waters in the Queensland Murray-Darling Basin

Glossary of terms

Acceptable quality of water means water in which the concentration level of the contaminants is not greater than the water quality objectives prescribed by the relevant Healthy Waters Management Plan.

Beneficial use means the resource such as water has a **beneficial use** other than disposal. An example of beneficial use is reusing or recycling water.

Bywash means water that is diverted from a dam or reservoir and is usually associated with a pipe or other structure to prevent uncontrolled overtopping.

Coal seam gas water means **underground water** brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas.

Contaminated agricultural run-off water means **overland flow water** that contains, or is likely to contain, excess nutrients or farm chemicals at levels potentially harmful to the quality of water in a **watercourse**, **lake** or **spring**.

Environmental authority see the *Environmental Protection Act 1994.*
Note: **Environmental authority** means generally an **environmental authority** issued under section 195 of the *Environmental Protection Act 1994* that approves an **environmentally relevant activity** applied for in an application.

Environmental harm see the *Environmental Protection Act 1994*
Note: **Environmental harm** is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on environmental value, and include environmental nuisance.

Environmentally relevant activity (ERA) see the *Environmental Protection Act 1994.*
Note: Each of the following is an **environmentally relevant activity**:
1. an agricultural **ERA** as defined under section 75 of the *Environmental Protection Act 1994*
2. a resource activity as defined under section 107 of the *Environmental Protection Act 1994*
3. an activity prescribed under section 19 of the *Environmental Protection Act 1994* as an **environmentally relevant activity**.

Existing works means works that allow taking of **overland flow water** that are in existence at the time the relevant development application is made.

Floodwater see the *Water Act 2000.*
Note: **Floodwater**, in relation to a **watercourse** or **lake**, means water that has overflowed the outer banks of the **watercourse**, or the bed and banks of the **lake**, because of a flood event affecting the **watercourse** or **lake**, and is on land near the **watercourse** or **lake**.

Incidental take of overland flow water means to take **overland flow water** in a storage that is primarily for storing water from a source other than overland flow.

Intensive stocking means a technique of stocking land on a long term basis above what is normally considered to be the carrying capacity of the land, for example, by implementing strategic or rotational grazing.

Lake see schedule 4 of the *Water Act 2000*.
Note: **Lake** includes:
1. if a feature is identified on the **watercourse** identification map as a **lake** – means the feature identified on the map; or
2. otherwise, includes:
   a. a lagoon, swamp or other natural collection of water, whether permanent or intermittent
   b. the bed and banks and any other element confining or containing the water.

Levee see schedule 4 of the *Water Act 2000*.
Note: **Levee** means an artificial embankment or structure which prevents or reduces the flow of **overland flow water** onto or from land. A **levee** includes **levee**-related infrastructure.

Limited catchment areas are areas listed in table 10.3.1.

Murray Darling Basin catchment includes the following **water plan** areas**:**
1. Water Plan (Condamine and Balonne) 2019 area
2. Water Plan (Border Rivers and Moonie) 2019 area
3. Water Plan (Warrego, Paroo, Bullo and Nebine) 2016 area; except the Bulloo River catchment. (see schedule 1 of the Water Plan)

Overland flow water see schedule 4 of the *Water Act 2000*.
Note: **Overland flow water**:
1. means water, including **floodwater**, that is urban stormwater or is other water flowing over land, other than in a **watercourse** or **lake**:
   a. after having fallen as rain or in any other way; or
   b. after rising to the surface naturally from underground
2. does not include:
   a. 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
   b. tailwater from irrigation if the tailwater recycling meets best practice requirements; or
   c. water collected from roofs for rainwater tanks.

Same premises means contiguous parcels of land or tenure under the same land ownership or tenure holder.

Spring see schedule 4 of the *Water Act 2000*.
Note: **Spring** means:
1. if a feature is identified on the **watercourse** identification map as a **spring** – the feature identified on the map; or
2. otherwise – the land to which water rises naturally from below the ground and the land over which the water then flows.

Underground water see schedule 4 of the *Water Act 2000*.
Note: **Underground water** means water that occurs naturally in, or is introduced artificially into, an aquifer.

Water entitlement see schedule 4 of the *Water Act 2000*.
Note: **water entitlement** means a water allocation, interim water allocation or water licence granted under the *Water Act 2000.*

Water plan see schedule 4 of the *Water Act 2000*.
Note: **Water plan** means a plan approved by the Governor in Council under section 48(1) of the *Water Act 2000*.

Water management protocol see schedule 4 of the *Water Act 2000*.
Note: **Water management protocol** means a protocol made by the chief executive under section 68 of the *Water Act 2000.*

Water planning instrument see schedule 4 of the *Water Act 2000*.
Note: **Water planning instrument** means a water plan, **water management protocol** or moratorium notice.

Water sensitive urban design means design that integrates total water cycle management into the urban built form to minimise the effects of development on the natural water cycle and environmental values, and to address water supply and use.

Watercourse see schedule 4 of the *Water Act 2000*.
Note: A **watercourse**:
1. is a river, creek or other stream, including a stream in the form of an anabranch or a tributary, in which water flows permanently or intermittently, regardless of the frequency of flow events:
   a. in a natural channel, whether artificially modified or not; or
   b. in an artificial channel that has changed the course of the stream
2. includes any of the following located in it:
   a. in-stream islands
   b. benches
   c. bars
3. does not, however, include a drainage feature
4. further, unless there is a contrary intention, a reference to a **watercourse** in the *Water Act 2000*, other than in section 5 or in the definitions in schedule 4 to the extent they support the operation of section 5, is a reference to anywhere that is:
   a. upstream of the downstream limit of the **watercourse**
   b. between the lateral limits of the **watercourse**
   c. a reference to the *Water Act 2000* to, or a to a circumstance that involves, land adjoining a **watercourse**, is a reference to, or a circumstance that involves, and effectively adjoining a **watercourse**.

Section 5AA of the *Water Act 2000* provides for the **watercourse identification map** that identifies the known extent of **watercourses** and drainage features that are managed under the *Water Act 2000*. Please be aware that the majority of minor **watercourses** and drainage features in Queensland have not yet been mapped, as indicated in the mapping, and therefore it should not be the only source of information that is relied upon when interpreting the SDAP provisions or identifying assessment triggers.

Water year see schedule 4 of the *Water Act 2000*
Note: a **water year**, for a water management protocol, resource operations licence, operations manual, interim resource operations licence or water licence, means—
(a) the accounting period prescribed by regulation for the protocol, licence or manual; or
(b) until a period is prescribed under paragraph (a)—the accounting period stated in the protocol, licence or manual for taking water under the protocol, licence or manual.

Abbreviations

ERA – Environmentally relevant activity