

# Code for self-assessable developments for taking overland flow water for stock and domestic purposes

WAM/2005/2017 – Version 9

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## Version history

Version	Date	Comment
2.0	05/08/2005	Endorsed
2.1	01/11/2005	Conversion to new XML template
3.0	09/11/2005	Amended to list the amended Fitzroy water resource plan and correct minor errors.
4.0	20/05/2008	Amended to include Gulf and Mitchell Water Resource Plans, change to stock or domestic, clarification of operational works, other minor amendments and conversion to new Sharepoint template
4.1	23/06/2008	Update expiry date to 6 months from today
4.2	12/01/2010	Make changes associated with the implementation of the Sustainable Planning Act 2009 (replaced Integrated Planning Act 1997 on 18 December 2009). Update departmental name.
5.0	05/08/2010	Make changes to be consistent with other codes
6.0	26/07/2011	Amendments include: reference to wild rivers declaration removed, minor update to Executive summary, ensure that legislative references are correct, and reinsertion of water resource plan areas that restrict the stock or domestic water that can be taken in the section titled 'Limitation on storage volume'.
7.0	09/11/2011	Minor amendment in 'Executive summary': addition of 'where the works have been made self-assessable development'. Removal of heading 'Limitation on storage volume' as this heading does not accurately reflect the statutory right provided under section 20 of the Water Act.
8.0	15/11/2011	Other minor amendments.
9.0	08/12/2011	Updated to reflect release of the Water Resource (Fitzroy Basin) Plan 2011

## Executive Summary

Under schedule 3, part 2 of the Sustainable Planning Regulation 2009 (SP Regulation) works that allow the taking of overland flow water are self-assessable if the operations are mentioned as self-assessable development in a water resource plan, a wild rivers declaration or prescribed as self-assessable development under the Water Regulation 2002 (Water Regulation) under the *Water Act 2000* (Water Act).

This code applies to the construction of operational works that take overland flow water for stock or domestic purposes (stock or domestic works) where the works have been made self-assessable development in water resource plans or the Water Regulation.

Works that are self-assessable development do not require a development permit. A landholder may construct works to take overland flow water for stock or domestic purposes without a development permit provided the works comply with this code.

Note: Works constructed under this code may require other approvals. Refer to section titled 'Responsibilities'.

## Purpose

The purpose of this code is to ensure that operational works that take overland flow water for stock or domestic purposes will be:

- consistent with the objectives of the applicable water resource plan or the Water Regulation
- no larger than necessary to meet the requirements for water for stock or domestic purposes (i.e. limited to the determined volumetric capacity)
- constructed to, as far as practicable, minimise the impact of the works on overland flow with regard to neighbouring properties and downstream users of overland flow water
- consistent with the landholder's authority to take overland flow water.

## Scope of code

This code applies only in the areas and to the extent that a water resource plan or the Water Regulation provides for operational works that take overland flow water for the purposes of stock or domestic to be self-assessable development under the SP Regulation.

Operational works that take overland flow water include:

- a. storages, sumps, drains, embankments, channels, pipes and pumps for taking, or that can be used for taking, overland flow water
- b. storages that are connected to the works mentioned in paragraph (a)
- c. works that make, or that can be used to make, the original connection between the storages mentioned in paragraph (b) and the works mentioned in paragraph (a).

Note: This code applies to operational works being constructed only for the authorised take of water for stock or domestic purposes.

This code does not apply to:

- works for taking overland flow water for stock or domestic purposes exceeding the maximum volume calculated in accordance with mandatory requirements (see section titled 'Mandatory requirements')
- works for taking overland flow water for a purpose other than stock or domestic purposes
- works that interfere with water in a watercourse, lake or spring.

## Procedure

### ***Mandatory requirements***

Self-assessable development constructed under this code must comply with this code. It is an offence under section 574 of the *Sustainable Planning Act 2009* for a person to construct works that do not comply with this self-assessable code (maximum penalty – 165 penalty units).

It is a condition that water taken by the overland flow works must only be used for stock or domestic purposes.

### **Notification of works**

The owner of land on which the works are constructed must notify their local departmental office of the location and capacity of the works constructed under this code within 60 business days of completing the works.

This notification must include the form *W2F082 Notification form self-assessable works to take overland flow water* (notification form) in Attachment 1 of this code.

For works located in the catchments of the water resource plans listed below:

- Water Resource (Baffle Creek Basin) Plan 2010
- Water Resource (Border Rivers) Plan 2003
- Water Resource (Burdekin) Plan 2007
- Water Resource (Calliope) Plan 2006
- Water Resource (Condamine Balonne) Plan 2004
- Water Resource (Cooper Creek) Plan 2011
- Water Resource (Fitzroy Basin) Plan 2011
- Water Resource (Gulf) Plan 2007
- Water Resource (Mitchell) Plan 2007
- Water Resource (Moreton) Plan 2007
- Water Resource (Whitsunday) Plan 2010.

the following applies:

1. Prior to constructing works under this code, a landholder must determine the stock or domestic requirements for the parcel of land on which the works will be located. This is done by completing 'Part F Annual water requirements worksheet' (worksheet) on the notification form (Attachment 1), based on the number of households on the land or the number of stock normally depastured on the land.
2. The construction of the works on a parcel of land must not result in the total water storage capacity\* for the parcel of land being more than the stock or domestic requirements for the parcel of land calculated using the worksheet.

\*The total water storage capacity for a parcel of land means the total volume of all stock or domestic storages on the parcel.

**Example:** A parcel of land already has a 20 ML dam that is used for stock or domestic purposes. Using the worksheet, the landholder calculates an annual requirement of 60 ML. Under this code, the landholder may only build a further 40 ML of stock or domestic storage, to take the total storage to 60 ML.

### ***Performance requirements***

The table below specifies the performance requirements that must be satisfied. The performance requirements of the code will be satisfied if the acceptable solutions are adopted. Failure to meet the performance requirements is a breach of this code and is an offence under the *Sustainable Planning Act 2009*.

Performance requirements	Acceptable solutions
A. Physical impacts of overland flow works on neighbouring properties are to be minimised.	A.1 The overland flow works are contained within the property boundaries. A.2 At full supply level the area inundated is contained within the property boundaries. A.3 Any bywash resulting from the overland flow 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 prior to commencement of the works.
B. The natural ecosystem and water quality of a wetland of ecological significance is to be maintained.	B.1 Works are not to be located within a distance of 200 metres of a 'wetland of ecological significance'* outside an urban area and 50 metres in an urban area. *See section titled 'Definitions.'
C. Works minimise the disturbance of acid sulphate soils.	Refer to the State Planning Policy 2/02 Guideline Planning and Managing Development Involving Acid Sulfate Soils < <a href="http://www.derm.qld.gov.au/land/ass/products.html">http://www.derm.qld.gov.au/land/ass/products.html</a> > .

## Responsibilities

A person constructing works that take overland flow water must also ensure they comply with any other relevant state and federal laws including, but not limited to:

- *Vegetation Management Act 1999*—this Act places limitations on the clearing of native vegetation. A landholder must ensure they have any necessary permits prior to clearing a site for the construction of a new storage
- *Environmental Protection Act 1994*—this Act places obligations on landholders in respect of ensuring that their actions do not result in harm to the environment
- *Aboriginal Cultural Heritage Act 2003*—this Act places an obligation on people to take all reasonable and practicable measures to ensure an activity they are undertaking does not harm aboriginal cultural heritage
- *Wild Rivers Act 2005*—this Act places an obligation on landholders to take into consideration the impact of activities and the taking of natural resources on the natural values of a wild river
- other provisions of the Water Act
- local town planning schemes.

It is the responsibility of the landholder to ensure that the works are consistent with all other legislative and regulatory requirements.

## Definitions

This part defines particular words used in this code.

**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.

**Department** means the agency administering the *Water Act 2000*.

Water for **domestic purposes** is limited to all purposes for which water is used ordinarily in or in connection with a dwelling house and garden not exceeding 2,500 square metres. It does not include water used in any business, commercial or manufacturing purposes carried on, in or in connection with a dwelling house. It does not include irrigation of produce grown for sale, barter, or exchange.

**Lake** includes a lagoon, swamp or other natural collection of water, whether permanent or intermittent and the bed and banks and any other element confining or containing the water.

### Overland flow water

1. Overland flow water means water, including floodwater, flowing over land otherwise 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. Overland flow water 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 broad-acre ploughing or
  - b. tailwater from irrigation if the tailwater recycling meets best practice requirements or
  - c. water collected from roofs for rainwater tanks.

**Property** means one or more contiguous parcels of land, operated as a single enterprise.

A **Regulation** provides for a range of matters required by an act of legislation which allows for the proper functioning of the Act.

**Spring** means the land to which water rises naturally from below the ground and the land over which the water then flows.

Water for **stock purposes** is limited to the volume necessary for the watering of animals of a number that would normally be depastured on the land on which the water is used, having regard to any seasonal fluctuations in the carrying capacity of the land. It does not include stock held in close concentration for a purpose other than grazing, such as in a feedlot. Nor does it include taking large quantities of water for storage and use at a later time when water may not otherwise be available.

A **watercourse** 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, in a natural channel, whether artificially modified or not; or in an artificial channel that has changed the course of the stream. It includes any in-stream islands, benches and bars located in it.

Further, a watercourse is anywhere in a river, creek or other stream that is:

- i. upstream of the downstream limit of the watercourse
- ii. if there is an upstream limit of the watercourse, downstream of the upstream limit
- iii. between the outer bank on one side of the watercourse and the outer bank on the other side of the watercourse.

A watercourse does not include a drainage feature but does include in-stream islands, benches or bars \*.

Note: Generally, the non-tidal boundary (watercourse) of land bounded by a watercourse, as provided for under the *Survey and Mapping Infrastructure Act 2003*, would not correspond precisely with the line of the outer bank of a watercourse under this Act.

\* Summary definition developed for the purpose of this code with actual definition provided by section 5 of the Water Act

**Water resource plan** means the water resource plan for the area to which the application relates and is subordinate legislation under the Water Act.

**Wetlands of ecological significance** includes natural freshwater wetlands that have been identified on the Map of referable wetlands

<<http://www.derm.qld.gov.au/wildlife-ecosystems/ecosystems/referable-wetlands-maps.html>> , a document approved by the chief executive administering the *Environmental Protection Act 1994*. The following wetlands information is available:

- A property scale map of referable wetlands <<http://www.derm.qld.gov.au/wildlife-ecosystems/ecosystems/referable-wetlands-maps.html>> can be requested on-line from Environmental Mapping and Databases <<http://www.derm.qld.gov.au/wildlife-ecosystems/ecosystems/referable-wetlands-maps.html>> .
- The State Planning Policy 4/11 on Protecting Wetlands of High Ecological Significance in the Great Barrier Reef Catchments <<http://www.derm.qld.gov.au/wildlife-ecosystems/ecosystems/wetlands-spp.html>> is available from the department's website <<http://www.derm.qld.gov.au/wildlife-ecosystems/ecosystems/wetlands-spp.html>> .
- Other information on wetlands including wetland values is available from WetLandInfo <<http://www.epa.qld.gov.au/wetlandinfo/site/index.html>> .

**Wild rivers declaration** is a statutory document under the *Wild Rivers Act 2005*, which aims to provide a high level of protection from new development activities that have the potential to degrade the wild river's natural values.

# Legislation

*Sustainable Planning Act 2009*

*Water Act 2000*

## Attachments

Attachment 1 W2F082 Notification form self-assessable works to take overland flow water  
<attachments/w2f082-sa-works-olf.pdf> (which includes the Annual water requirements worksheet)