

State code 10: Taking or interfering with water

10.1 Purpose statement

The purpose of this code is to provide for the sustainable management of water by ensuring that development for taking or interfering with water:

1. maintains and where reasonably possible reverses degradation of:
 - a. natural ecosystem processes
 - b. riverine environment
 - c. **underground water** systems
 - d. physical integrity of **watercourses**
2. minimises adverse impacts on the:
 - a. connectivity between **underground water** and water in a **watercourse, lake or spring**
 - b. property of others
3. is consistent with the requirements of water planning instruments and authorities to take or interfere with water under the *Water Act 2000*
4. does not adversely impact the water security of other users and their access to the water resource
5. minimises the volume of **overland flow water** taken, consistent with the purpose of the development.

Note: Guidance on addressing code requirements is available in the State Development Assessment Provisions Guidance Material: State code 10: Taking or interfering with water, Department of Natural Resources and Mines, 2017.

10.2 Performance outcomes and acceptable outcomes

Development mentioned in table 10.2.1 should demonstrate compliance with the relevant provisions in table 10.2.2.

Table 10.2.1: 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 10.2.2 – General: PO1 – PO4
For works that take or interfere with underground water	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Underground water : PO5 – PO6
For works that take overland flow water , where prescribed by regulation under the <i>Water Act 2000</i>	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9
For works that take overland flow water , where the works are reconfiguring existing works	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9 Table 10.2.2 – Reconfiguring existing works : PO10 – PO13
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 10.3.1.	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9 Table 10.2.2 – Limited catchment area: PO14
For works that take overland flow water which is contaminated agricultural run-off water	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9 Table 10.2.2 – Contaminated agricultural run-off water : PO15
For works that take overland flow water as part of an environmentally relevant activity or under an environmental authority	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9 Table 10.2.2 – Environmentally relevant activity : PO16

Development	Relevant provisions of the code
For works that take overland flow water , incidental to capturing coal seam gas water	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9 Table 10.2.2 – Coal seam gas water : PO17
For works that take overland flow water , under a water entitlement	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9
For works that take overland flow water for the purpose of water sensitive urban design , for developments in urban areas	Table 10.2.2 – General: PO1 – PO4 Table 10.2.2 – Overland flow water : PO7 – PO9

Table 10.2.2: Operational works

Performance outcomes	Acceptable outcomes
General	
PO1 Works do not adversely impact on the natural riverine ecosystem.	No acceptable outcome is prescribed.
PO2 Works do not adversely impact other users' ability to access the resource.	No acceptable outcome is prescribed.
PO3 Works do not adversely impact on the physical integrity of the watercourse .	No acceptable outcome is prescribed.
<p>PO4 Works are consistent with any of the following, to the extent they are relevant to the proposed development:</p> <ol style="list-style-type: none"> 1. a water plan 2. a water management protocol 3. a moratorium notice issued under the <i>Water Act 2000</i>. <p>Note: Moratorium notices are published on the Department of Natural Resources and Mines website. An example of a requirement in a water plan is a prescribed setback distance for new water bores from other existing water bores. These requirements will be different for each water plan.</p>	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 minimise impacts on connectivity between underground water and water in a watercourse, lake or spring .	No acceptable outcome is prescribed.
Overland flow water	
<p>PO7 Works must not take overland flow water unless the works are:</p> <ol style="list-style-type: none"> 1. for an activity prescribed by regulation under the <i>Water Act 2000</i>; 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 minimise the impact on receiving waters and neighbouring properties.	<p>AO8.1 Works are in accordance with a certified report, or the works are for:</p> <ol style="list-style-type: none"> 1. the taking of contaminated agricultural runoff water where the volume is less than the volume of the limited capacity identified in a water plan or water management protocol; or

Performance outcomes	Acceptable outcomes
	2. if no limited capacity is identified the capacity is less than 12 megalitres of contaminated agricultural run-off water ; or 3. taking for stock and domestic purposes; or 4. taking overland flow water under a water entitlement .
PO9 Works are located, constructed and operated in a way that minimises adverse impacts on neighbouring properties.	AO9.1 Works are contained within the property boundaries. AND AO9.2 At full supply level, the area inundated is contained within the property boundaries. AND AO9.3 Bywash resulting from the works and any water diverted away from contaminated areas exits the property as close as practicable to the same location to which it exited the property boundary prior to construction of the works.
Reconfiguring existing works	
PO10 Construction of new works must not increase the overall take of overland flow water .	AO10.1 Construction of new works must not result in an increase 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.
PO11 Works must not involve reconfiguration of natural water bodies or bunded areas.	No acceptable outcome is prescribed.
PO12 Works must 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.
PO13 New works must be located within the same premises as the existing works .	No acceptable outcome is prescribed.
Limited catchment area	
PO14 In the limited catchment areas, any works for storing water must not: 1. be larger than necessary for storing water other than overland flow water ; or 2. be able to take floodwater overflowing from any adjacent watercourse . Note: Limited catchment areas are listed in table 10.3.1.	AO14.1 In the limited catchment areas, the incidental take of overland flow water : 1. is located within the sub-catchment/management area listed in table 10.3.1, 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 10.3.1, column 3.
Contaminated agricultural run-off water	
PO15 Works to take contaminated agricultural run-off water must: 1. demonstrate that there is no alternative way to take the water by using or reconfiguring existing works	No acceptable outcome is prescribed.

Performance outcomes	Acceptable outcomes
<p>2. be no larger than necessary to contain contaminated agricultural run-off water or tailwater</p> <p>3. minimise the volume of water that becomes contaminated agricultural run-off water</p> <p>4. where practicable, allow for water that is not contaminated agricultural run-off water or tailwater to be passed through the works.</p> <p>Note: The design of the works should have regard to relevant industry guidelines and best practice environmental management.</p>	
Environmentally relevant activity	
<p>PO16 Works only capture overland flow water necessary for the operation of the environmentally relevant activity or environmental authority under the <i>Environmental Protection Act 1994</i>.</p>	No acceptable outcome is prescribed.
Coal seam gas water	
<p>PO17 Any storage for the works must:</p> <p>1. be no larger than necessary to store coal seam gas water for the beneficial use of the resource under chapter 8 of the <i>Waste Reduction and Recycling Act 2011</i></p> <p>2. minimise the volume of overland flow water taken</p> <p>3. not be able to take floodwater from any adjacent watercourse</p> <p>4. not contain coal seam gas water that could be stored in an existing alternative storage.</p>	No acceptable outcome is prescribed.

10.3 Reference tables

Table 10.3.1: 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, Nogoia and Comet	250 hectares
Burnett Basin	Coastal Burnett Overland Flow Area	25 hectares

10.4 Reference documents

Queensland Government Business and Industry Portal 2015, [Overland flow works that require certification](#)

Department of Natural Resources and Mines 2017, [State Development Assessment Provisions Guidance Material: State code 10: Taking or interfering with water](#)

10.5 Glossary of terms

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.

Best practice environmental management, for an activity, see the *Environmental Protection Act 1994*.

Note: The **best practice environmental management** of an activity is the management of the activity to achieve an ongoing minimisation of the activity's environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity. In deciding the **best practice environmental management** of an activity, regard must be had to the following measures:

1. strategic planning by the person carrying out, or proposing to carry out, the activity
2. administrative systems put into effect by the person, including staff training and monitoring and review of the systems
3. public consultation carried out by the person
4. product and process design; and
5. waste prevention, treatment and disposal.

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.

Certified report means a report:

1. produced and certified by a person:
 - a. who is a Registered Professional Engineer of Queensland (RPEQ)
 - b. who has relevant farm water supply discipline experience if the proposed development is for agricultural production
2. that is prepared in accordance with or consideration of the information on **certified reports** provided on the Queensland Government Business and Industry Portal for 'overland flow works that require certification'.

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.

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.

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 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*, and is available at the following link: www.business.qld.gov.au/industry/water/managing-accessing/accessing-water/authorisations/watercourse-map. 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.

10.6 Abbreviations

RPEQ – Registered Professional Engineer of Queensland