

**Code for self-assessable
development for taking
overland flow water to satisfy
the requirements of an
environmental authority or a
development permit for
carrying out an environmental
relevant activity**

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Version history

Version	Date	Comment
1.0	07/08/2007	New
1.1	07/07/2008	Update metadata (to current, digital)
2.0	05/08/2010	Make changes associated with change from the Integrated Planning Act 1997 to the Sustainable Planning Act 2009, change departmental name from Departmental Natural Resources and Water to Qld Department Environment and Resource Management, ensure consistency with other codes.
3.0	26/07/2011	Amendments include: some references to wild rivers declaration removed, minor update to Executive summary and ensure that legislative references are correct.

Executive Summary

Under Schedule 3, Part 2 of the Sustainable Planning Regulation 2009 (SP Regulation) operational works that allow the taking of overland flow water are self-assessable development 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 that have been mentioned as self-assessable development in water resource plans or prescribed as self assessable development under the Water Regulation and which satisfy the requirements of an environmental authority or a development permit for carrying out an environmentally relevant activity (ERA).

Works that are self-assessable development do not require development approval under the Sustainable Planning Act 2009 (SPA). The holder of an environmental authority or development permit for carrying out an ERA may construct works for taking overland flow water under this code without a development permit provided the works are necessary to satisfy the requirements of an environmental authority or a development permit for carrying out an ERA.

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

Purpose

Purpose

The purpose of this code is to ensure that operational works that take overland flow water to satisfy the requirements of an environmental authority or a development permit for carrying out an ERA will be:

- consistent with the objectives of the applicable water resource plan or the Water Regulation
- constructed to, as far as practicable, minimise impact of the works on overland flow water with regard to neighbouring properties and users of overland flow water in lower parts of the catchment
- consistent with a person's authority to take overland flow water.

Scope of code

This code applies in those areas where a water resource plan or the Water Regulation provides for operational works that take overland flow water to be self-assessable development and which satisfy the requirements of an environmental authority or a development permit for carrying out an ERA,.

The take of water must not be more than the amount necessary to satisfy the requirements of:

- a. an environmental authority for a mining activity, greenhouse gas storage activity or petroleum activity issued under the *Environmental Protection Act 1994*, or
- b. a development permit for carrying out an ERA, other than a mining activity, greenhouse gas storage activity or petroleum activity, under the *Environmental Protection Act*.

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) and
- 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).

This code applies only to operational works necessary to take overland flow water that may be contaminated as a result of operations carried out under the authority of an environmental authority or a development permit for carrying out an ERA.

An environmental authority or development permit for carrying out an ERA provides an indication of the extent of the take of water, including overland flow water, required to minimise potential adverse environmental impacts and must be held before construction of works under this code may commence.

This code does not apply to:

- overland flow works where the storage associated with the works is of a greater volume than the maximum volume specified in, or necessarily required by, the relevant environmental authority or development permit for an ERA
- overland flow works that take tailwater or contaminated agricultural runoff. (Please note that contaminated agricultural runoff does not include contaminated overland flow water that results from the operation of an ERA.)
- Local government planning schemes.

Procedure

Mandatory requirements

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

Notification of works

Notification of works (non-mining activities)

- a. The holder of a development permit for an ERA must notify the local department office of the location and capacity of works constructed under this code within 60 business days of completing construction of the works
- b. The notification of works under this section must consist of:
 - i. a completed copy of the form in Attachment 1 of this code
 - ii. a copy of the relevant development permit for an ERA.

Notification of works (mining activity, greenhouse gas storage activity or petroleum activity)

- a. The holder of an environmental authority (mining activity, greenhouse gas storage activity or petroleum activity) must notify the local departmental office of the location and capacity of the first works constructed under this code within 60 business days of completing construction of the work
- b. The first notification under (a) must also include the approximate location and capacity of works intended to be constructed under this code in the following 12 months
- c. At the first and subsequent anniversaries of the first notification, the holder of the environmental authority must notify the department of:
 - i. works that were constructed under this code in the 12 months since the last notification
 - ii. the approximate location and capacity of proposed works that the holder of the environmental authority intends to construct under this code over the next 12 months
- d. Notification of works under this section must consist of a completed copy of the form in Attachment 1 of this code and be accompanied by a copy of the approved environmental authority for the mining activity, greenhouse gas storage activity or petroleum activity.

Limitation on storage volume

Works constructed under this code must not take more overland flow water than the amount necessary to satisfy a requirement of an environmental authority or development permit for carrying out an ERA.

For example, where it is the requirement of an environmental authority or a development permit for an ERA to contain a minimum of 10ML of contaminated runoff water on the site, the capacity of the associated overland flow works must be in accordance with this requirement.

Purposes for which water may be used

Overland flow water that is being taken, using works constructed in accordance with this code may be used for any purpose.

For example, where water is taken in mining related sediment control works, this water could then be used for dust suppression or other mine related purposes.

Performance requirements

The table below specifies the performance requirements that must be satisfied. The performance requirements of the code will be satisfied if one or more of the acceptable solutions are adopted. Failure to meet the performance requirements is a breach of this code and is an offence under the SPA.

Performance criteria	Acceptable solution
A) Physical impacts of overland flow works on neighbouring properties are to be minimised.	A.1 The overland flow works are contained within land subject to the ERA. 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 as which it exited the property prior to commencement of the works.

Responsibilities

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

- *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
- other provisions of the *Water Act 2000*.

Definitions

This part defines particular words or phrases used in this code.

An **activity** is an agricultural ERA if:

- a. it is:
 - i. commercial sugar cane growing, or
 - ii. cattle grazing carried out on an agricultural property of more than 2000ha, and
- b. it is carried out on an agricultural property in 1 or more of the following catchments (each a priority catchment):
 - i. the Wet Tropics catchment
 - ii. the Mackay-Whitsunday catchment
 - iii. the Burdekin dry tropics catchment.

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*.

Environmental authority means an environmental authority under chapter 5 (mining activity) or chapter 5A (greenhouse gas storage activities and petroleum activity) of the Environmental Protection Act.

Environmental authority holder means the holder of an environmental authority under chapter 5 (mining activity) or chapter 5A (greenhouse gas storage activities and petroleum activity) of the Environmental Protection Act.

Environmentally relevant activity or **ERA** means an activity prescribed under section 18 of the Environmental Protection Act and includes:

- an agricultural ERA
- a mining activity
- a chapter 5A activity (that is greenhouse gas storage activity and petroleum activity) or
- another activity prescribed under section 19 of the Environmental Protection Act as an environmentally relevant activity.

Holder of an environmental authority for a mining activity, greenhouse gas storage or petroleum activity includes, for the purposes of notification under this code, subsequent holders of the environmental authority.

Greenhouse gas storage activity means any greenhouse gas storage activity defined in Schedule 4 of the Environmental Protection Act 1994.

Mining activity means an activity as defined by section 147(2) of the Environmental Protection Act that, under the *Mineral Resources Act 1989*, is authorised to take place on:

- a. land to which a mining tenement relates or
- b. land authorised under that Act for access to land mentioned in paragraph (a).

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.

Petroleum activity means a petroleum activity as defined in Schedule 4 of the Environmental Protection Act.

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

Watercourse

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. [1]

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.

[1] Summary definition developed for the purpose of this code with actual definition provided by section 5 of the *Water Act 2000*.

Water resource plan means the water resource plan for the area to which the application relates and is subordinate legislation under the *Water Act 2000*.

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.

Attachments

Attachment 1 W2F083 Notification form self-assessable works to take overland flow water environmentally relevant activity <attachments/w2f083-sa-works-olf-era.pdf>