

Underground Water Management Framework

Chapter 3 of the *Water Act 2000*

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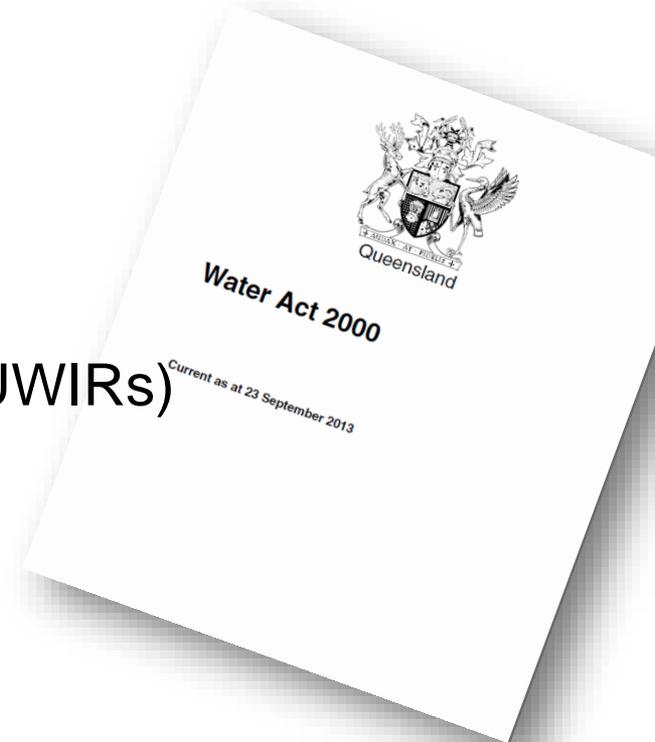
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Overview

- **Chapter 3 of the Water Act**
 - Underground water impact report (UWIRs)
 - Baseline Assessment Plans (BAPs)
 - Bore Assessments
 - Make Good Agreements
 - Disputes



Key agencies and their roles

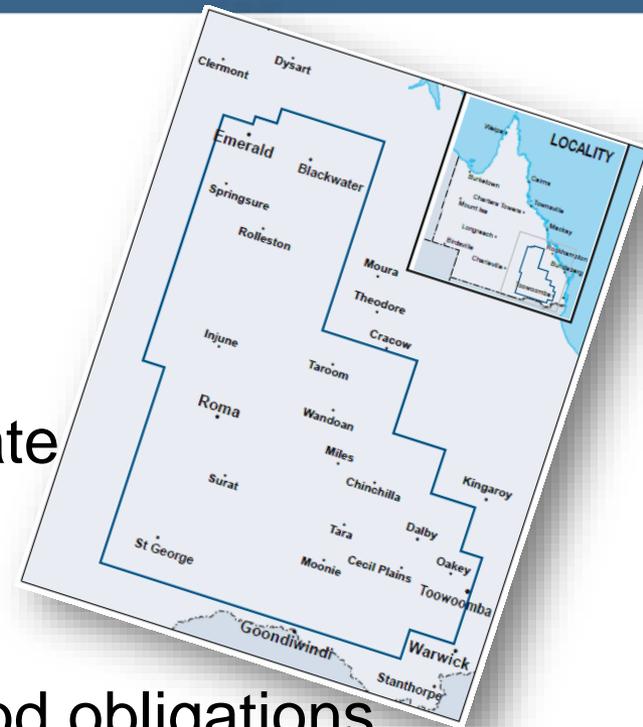
- Department of Environment and Heritage Protection
— administers (assesses and decides applications, policy)
- Department of Natural Resources and Mines
 - CSG Compliance Unit – on the ground: enquiries, complaints and investigations, dispute resolution
 - Office of Groundwater Impact Assessment – independent advice about groundwater impacts, modelling impacts for cumulative management areas (e.g. Surat) & research

Purpose of the Framework

- To provide for the **management of impacts** on underground water caused by the **exercise of underground water rights** by petroleum tenure holders.
- Petroleum tenure holders have a statutory right to take water, but with these rights comes an obligation to comply with Chapter 3 of the Water Act.
- Focused on spring and water bore impacts – broader environmental impacts (see *EP Act 1994*).

Predicting impacts - UWIRs

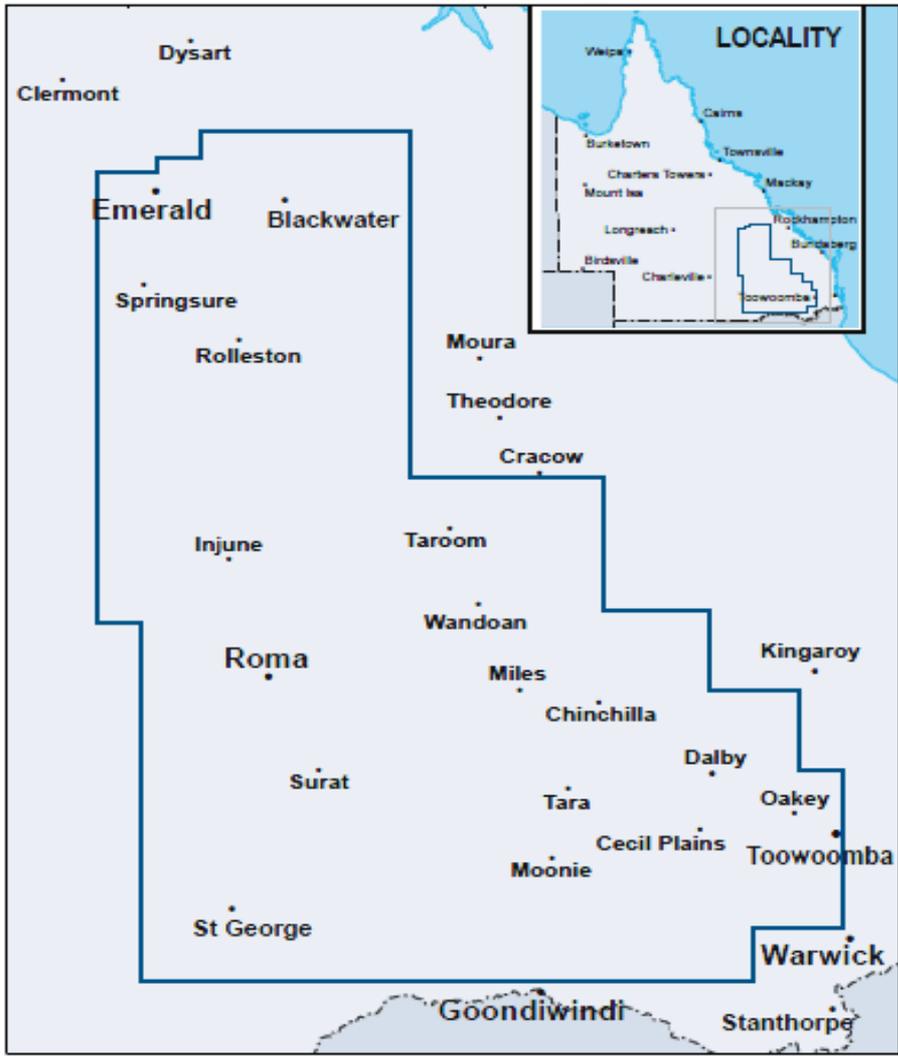
- Model, make predictions and set out monitoring obligations
- Predict impacts both in the immediate and long term
- Establishes tenure holder make good obligations
- Chief Executive can declare a cumulative management area (e.g. Surat Basin) to manage overlapping impacts – Office of Groundwater Impact Assessment



Predicting impacts - UWIRs

- UWIR reviewed every year to determine if there has been any material changes in impacts on predictions
- New UWIR required every 3 years
- Requirement for public consultation on the draft
- Water Monitoring Strategy and Spring Impact Management Strategy

The Surat Cumulative Management Area



Baseline Assessment Plans (BAPs)

- Must comply with Baseline Assessment Guideline
- A **baseline assessment** is an assessment of a water bore undertaken by a tenure holder to obtain information about the bore, including:
 - The level and quality of water in the bore;
 - How the bore is constructed; and
 - The type of infrastructure used to pump water from the bore.
- BAP must be submitted **before** petroleum testing or petroleum production commences and the BAP sets out a **timetable** for undertaking baseline assessments for bores located on tenure, by dividing the tenure into **priority areas**.

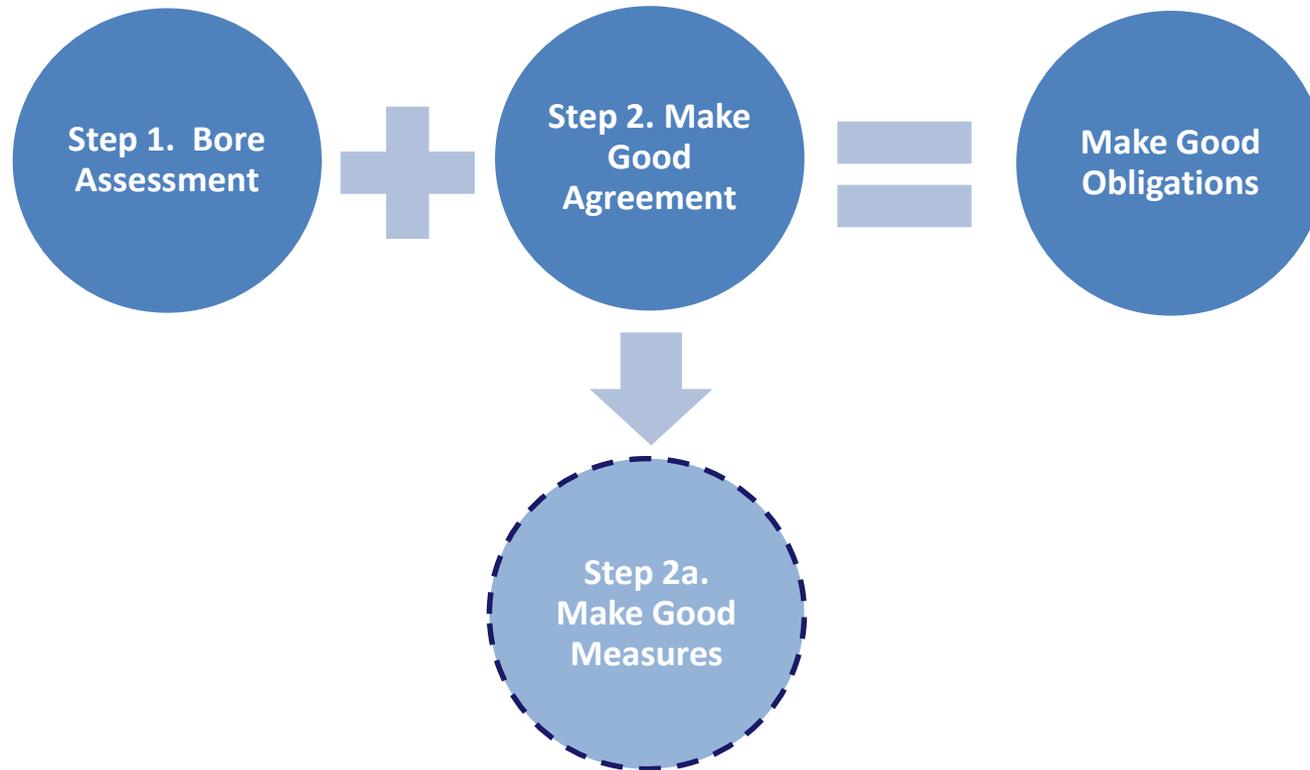
Make good obligations of a tenure holder

- Undertake a bore assessment
- Enter into a make good agreement;
- Comply with a make good agreement; and
- If asked to vary the make good agreement under section 424 of the Water Act, negotiate a variation of the make good agreement.

Make good obligations – when they apply

- A tenure holder has make good obligations for a bore in two circumstances:
 1. The bore is modelled to be located within an **immediately affected area** of an UWIR; or
 2. The tenure holder has been **directed** under Section 418 of the Water Act to undertake a **bore assessment**
(If chief executive reasonably believes a water bore can no longer supply a reasonable quantity or quality of water for its authorised use or purpose).

Make Good Obligations



Step 1 - Bore assessments

- Establishes whether a bore has, or is likely to have, an **impaired capacity**.
- Completed within 60 business days after UWIR takes effect (unless chief executive agrees to a longer period).
- Must comply with statutory 'Bore Assessment Guideline', which includes the requirement that the bore assessment be or certified by an independent third party



Step 1. Bore Assessment

Impaired capacity

- For an **existing water bore**;
 - There is a decline in the water level of the aquifer at the location of the bore due to the exercise of underground water rights; and
 - Because of that decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.
- For a **new water bore**:
 - Meet the requirements for an existing water bore; and
 - However, the decline is more than the decline predicted in the relevant UWIR (i.e. UWIR in place at time new bore is constructed).

Step 2 - Make good agreements

- A make good agreement is required for all bores that have had a bore assessment undertaken
- A make good agreement must contain the following matters:
 1. State the **outcome** of the bore assessment;
 2. Whether the bore has or is likely to have an **impaired capacity**; and
 3. If the bore has, or is likely to have impaired capacity, **make good measures** for the bore



Step 2. Make good agreements

Step 2a - Make good measures

Make good measures only where a bore has or is likely to have an impaired capacity, may include:

- Deepening the bore;
- Constructing a new bore;
- Providing a different, but equivalent water supply;
- Program for monitoring of the bore; or
- Monetary compensation for the bore's impaired capacity.



Step 2a. Make
Good Measures

Step 2a *continued* - Make good measures

- Tenure holders are only responsible for impairment caused by the exercise of underground water rights (e.g. not a rusted bore)
- Tenure holder must **reimburse** reasonably incurred accounting, legal or valuation costs.
- A make good agreement is a **legally binding agreement**, that binds successors and assigns.



Step 2a. Make
Good Measures

When an agreement can be varied

- Three situations where either party may seek to vary a make good agreement (s424):
 1. There is a material change in circumstances
 2. The make good measures are ineffective
 3. There is another effective and more efficient measure available
- Section 424 does not prevent the parties from otherwise agreeing to vary the agreement.

Make Good Dispute Resolution

- If a tenure holder and the bore owner cannot agree on the terms of a make good agreement within the identified period either party may lodge an election notice for:
 - An authorised officer to conduct a conference; or
 - An alternative dispute resolution process (ADR)
- If these options fail to resolve the dispute, recourse to Land Court.

GUIDE FOR APPLICANTS

An authorised officer is appointed by the chief executive pursuant to section 739 of the Water Act 2000.

Upon completing a bore assessment, the responsible tenure holder must use its best endeavours to enter into a make good agreement with the bore owner within 40 business days (minimum negotiation period).

If an agreement has not been reached, either party may forward an election notice to the chief executive.

If a conference is requested the chief executive will take all reasonable steps to ensure the conference is finished within 30 business days after the election notice is given (the usual period).

If alternative dispute resolution (ADR) is requested, the parties must use their reasonable endeavours to finish ADR within the usual period.

The usual period may be extended if both parties agree or the chief executive determines that a longer conferencing period is required.

If you wish to hold a conference, legal representation cannot attend unless the other party agrees and the authorised officer or relevant officer is satisfied there is no disadvantage to a party.

The CSG Compliance Unit of the Department of Natural Resources and Mines has delegation from the chief executive of the Department of Environment and Heritage Protection to provide support to bore owners and petroleum tenure holders during the make good agreement process.

Question 1.1
Enter the tenure type, number and responsible tenure holder. If the bore is located off-tenure leave the tenure type and tenure number blank and tick the box to identify that the bore is located off-tenure.

A tenure includes:
Authority to Prospect (ATP)
Petroleum Lease (PL)

The responsible tenure holder is the tenure holder who is responsible for the make good obligation.

Question 2.1
Enter the name, address and contact details for the requesting person.
This may be the bore owner or tenure holder.

Page 1 of 4 • 140214 • EM110 • Version 2

Great state. Great opportunity.

Department of Environment and Heritage Protection

Election Notice

Section 426—Water Act 2000

Notice to seek conference or independent ADR

Section 426 of the Water Act 2000 allows a party that has not entered into a make good agreement to seek a conference or an alternative dispute resolution process (ADR) by giving notice to the other party and the chief executive.

This notice may be submitted by either the bore owner or tenure holder, and a copy must be provided to the other party under section 426(2) of the Water Act 2000.

This notice is to be provided to the chief executive via fax (07) 4529 1552 or email CSG.Enquiries@dnrm.qld.gov.au.

1. Tenure details

1.1 Provide the following details about tenure which is the subject of the negotiation

Tenure type	Tenure number	Responsible tenure holder

The bore(s) is located off-tenure.

2. Requestor details

2.1 Provide the details of the person requesting the negotiation

Full name

Company details (if applicable)

Registered name

ABN/ACN

Address

Suburb

State

Postcode

ABN 46 640 204 485

Queensland Government

CSG Compliance Unit's role

- Formal conference facilitation
 - Statutory process (30 business days)
 - Impartial chairperson
 - Understands and explores issues/interests of the parties
 - Agreement (resolution and/or next steps)
- Informal meeting facilitation
- Engagement
- Landholder point of contact for make good enquiries and complaints
- Coordination of inter-agency responses

Further information and resources

www.ehp.qld.gov.au



Frequently Asked Questions

Quick Guide – Make good obligations

Dispute Resolution Election Notice

Approved underground water impact reports

Bore & baseline assessment guidelines