



# Impact Analysis Statement

A Summary Impact Analysis Statement (IAS) must be completed for all regulatory proposals. A Full IAS (see Box 1) must also be completed and attached for proposals that have significant impacts. Once completed, the IAS must be published.

## Summary IAS

### Details

<b>Lead department</b>	Department of Regional Development, Manufacturing and Water
<b>Name of the proposal</b>	Water Regulation Amendment 2023
<b>Submission type</b> ( <i>Summary IAS / Consultation IAS / Decision IAS</i> )	Summary IAS
<b>Title of related legislative or regulatory instrument</b>	Water Regulation 2016
<b>Date of issue</b>	November 2023

Proposal type	Details
<b>Minor and machinery in nature</b>	<p>The following proposed amendments to the <i>Water Regulation 2016</i> (2016 Regulation) are minor and machinery in nature and do not result in substantive change to regulatory policy:</p> <ul style="list-style-type: none"> <li>• updating references in Schedule 9 and Schedule 11 of the 2016 Regulation relating to the <i>Water Plan (Barron) 2023</i>;</li> <li>• prescribing three new metered entitlement areas in Schedule 11 of the 2016 Regulation;</li> <li>• declaring a new bulk water customer,</li> <li>• listing a new prescribed entity in schedule 4 of the 2016 Regulation.</li> </ul>

## North Stradbroke Island (Minjerribah)

**What is the nature, size and scope of the problem? What are the objectives of government action?****Nature**

North Stradbroke Island (Minjerribah) is the second largest sand island in the world and was mined for minerals between 1949 and 2019. Following the first Native Title determination for the Quandamooka people in 2011, the Queensland Government pursued options for transitioning the economy away from sand mining to recognise and develop more environmentally and culturally appropriate industries on North Stradbroke Island (Minjerribah). The phasing out of sand mining on the island has presented opportunities for the Government to rehabilitate and return the land to the Quandamooka people. Current water management practices on North Stradbroke Island (Minjerribah) could also be enhanced alongside this to provide better social, economic, cultural or spiritual outcomes for the Quandamooka people. In particular, the cessation of sand mining on North Stradbroke Island (Minjerribah) created the opportunity to transition former mining water volumes (of up to 61,190 ML) to better protect the unique environmental and cultural values of North Stradbroke Island (Minjerribah).

North Stradbroke Island (Minjerribah) is unique. The island covers an area of approximately 271 square kilometres with small pockets of residential land use at the northern end of the island around Amity Point, Dunwich and Point Lookout. Around half (13,875 Ha) of North Stradbroke Island (Minjerribah) is currently protected area including Naree Budjong Djara (My Mother Earth) National Park. The North Stradbroke Island (Minjerribah) Protected Area Expansion Strategy outlines how the protected areas are expected to expand to around 80 per cent to maintain the island's biodiversity and rich Quandamooka culture. The island contains unique sand mass groundwater aquifers. These water resources are extracted to support small-scale commercial, industrial, recreational, stock and domestic, and community water supplies on the island. Up until recently, the largest groundwater entitlements were utilised for sand mining. Seqwater also holds significant entitlements, predominantly used to supply the mainland urban water grid.

**Magnitude/size**

Quandamooka people have a strong connection to water throughout Country including freshwater, marine, and groundwater systems. For Quandamooka people, water is life. In 2011 and 2019, Native Title determinations by the Federal Court of Australia recognised the unbroken connection and the continuous care of lands and waters by Quandamooka people through their own laws and customary practices.

Historically, mining leases covered the majority of North Stradbroke Island (Minjerribah) with the mining process involving water licenses with significant volumes associated with extraction activities. The proposal is to reserve the water that was previously licenced for mining so it may be allocated for the benefit of Quandamooka people and their Country. The Department of Manufacturing, Regional Development and Water (DRDMW) has been collaborating with the Minjerribah (Quandamooka Country) Steering Committee as part of a larger suite of works to transition and rehabilitate the land following the end of sand mining. DRDMW has been working with the Quandamooka people through the body nominated by them during the federal court native title process, the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC). QYAC has requested that half of the volume previously available to mining be set aside in a reserve for the betterment of culture and the environment with the remainder set aside as a general-purpose reserve for multiple purposes inclusive of land rehabilitation and economic opportunities for the Quandamooka people.

**Scope**

Across the rest of the Queensland, most water resources are managed under the water planning framework by water plans, which are developed under the *Water Act 2000* (the Act) to sustainably manage and allocate water resources in Queensland. Unallocated water is normally reserved under water planning instruments, typically with a purpose attached such as 'Strategic Infrastructure' for future projects such as dams, or 'Indigenous Reserves' for eligible people or for projects that advance the social and economic aspirations of Indigenous people. This means the water can be made available for future use without affecting the security of existing users nor the environmental and cultural values within a catchment.

North Stradbroke Island (Minjerribah) is not included in any of the water plans. The Act and the 2016 Regulation (specifically section 39 of the Act and section 14 of the 2016 Regulation) have provisions for reserving unallocated water in which no water plan applies.

The establishment of unallocated water reserves does not create a precedent for access to water for First Nations peoples. It aligns with existing provisions for indigenous unallocated water reserves that, until now, have only existed in areas covered by a water plan. It also recognises the unique circumstances created by the cessation of sand mining and the subsequent emergence of the Quandamooka people as the majority landholder on North Stradbroke Island (Minjerribah), including freehold land and the responsibilities and obligations for managing these holdings.

**The objectives of government action are to:**

- continue supporting the North Stradbroke Island (Minjerribah) community, economy and environment following the end of sand mining;
- recognise and respect the deep cultural connection the Quandamooka people have with the lands and waters of North Stradbroke Island (Minjerribah);
- enhance future water management through appropriate inclusion of traditional cultural knowledge; and
- deliver on the Government's commitment to transition the water previously allocated to mining back to the Quandamooka people.

**What options were considered?**

Several options were considered:

- Status quo (no action) – **undesirable**
- Amending the 2016 Regulation to add reserves – **preferred option**
- Create or amend a water plan to include North Stradbroke Island (Minjerribah) – **undesirable**

**Option 1 – Status quo (no action)**

This option would leave existing provisions as is and would result in no change. This is undesirable as it doesn't deliver on Government commitments to transition water previously used for mining on North Stradbroke Island (Minjerribah) to the Quandamooka people. In addition, it does not align with:

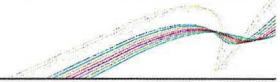
- the work of the Minjerribah (Quandamooka) Steering Committee to rehabilitate and return the land from sand mining to the Quandamooka people; nor
- commitments of the Government following the Federal Court native title determination in favour of the Quandamooka people; nor
- broader commitments of the Government toward First Nations peoples such as the Path to Treaty and the Queensland Government *Reconciliation Action Plan June 2023-July 2025*.

However, it is possible under the current framework for DRDMW to issue QYAC with a water licence for the volumes of water required, but the advantage of a reserve over a licence is that a reserve defines a purpose for which water can be used which sets up stronger expectations for the management and any corresponding licensing.

**Option 2 – Amending the Water Regulation 2016 (preferred)**

Section 39 of the Act and section 14 of the 2016 Regulation allow for the reservation of unallocated water for water to which no water plan applies.

This option would make small amendments to the 2016 Regulation to establish reserves for the Quandamooka people. It is proposed that QYAC, on behalf of the Quandamooka people, would manage any water granted to it that may be released from the proposed reserve of unallocated water under the Act in the future; this is because licences must be attributed to a specific individual or named corporation. QYAC are the federal court recognised entity for managing the Quandamooka people's rights and interests and are also a majority landholder on North Stradbroke Island (Minjerribah). QYAC has requested that half of the available water be permanently preserved for the health of the environment and island ecosystem.



The intent is to:

1. establish two water reserves into Schedule 2 of the 2016 Regulation of 30,595 megalitres each for the following purposes:
  - a. for the social or economic benefit of the Quandamooka people; and
  - b. to conserve and protect the water-related cultural, spiritual, and environment values of the Quandamooka people;
2. prescribe QYAC as an entity in Schedule 4 of the 2016 Regulation; and
3. make a small administrative change to amend section 16 of the 2016 Regulation to ensure the existing process for releasing unallocated water under a water plan also applies to water prescribed by regulation.

### **Option 3 – Create or amend a water plan**

Another option would be incorporating water management on North Stradbroke Island (Minjerribah) into either a new or an existing water plan. Water plans are set up with tools that can, among other things, establish unallocated water reserves. Water plans are generally developed after a range of assessments are undertaken, including social-economic, cultural values, ecological and hydrological assessments. These processes usually engage a broader range of stakeholders and have multiple touchpoints during the plan's development, on a range of issues, and take multiple years to complete.

Ultimately, water plans do provide certainty through comprehensive, evidence-based science and policy setting. This notably includes the setting of performance objectives, known as water allocation security objectives and environmental flow objectives, which water allocation and management proposals can be assessed against to determine if they are compatible with the water plan settings.

Both the 2016 Regulation and a water plan can prescribe reserves for any purpose, including to advance the social and economic aspirations of First Nations peoples. Water plans have other mechanisms to protect the cultural and environmental values of an area, like establishing environmental and cultural outcomes supported by strategies and rules to achieve these outcomes, this includes but is not limited to rules for water sharing among users and identification of unallocated water reserves.

While a water plan is ideal for creating a suite of water allocation and management arrangements, the creation of unallocated water reserves in the 2016 Regulation can address the immediate need of dealing with water no longer required for sand mining. Therefore, the creation or amendment of a water plan is not desirable at this time as it is not aligned with Government commitments and timeframes for providing benefit to the Quandamooka people.

### **What are the impacts?**

#### **Option 1 – Status quo (no action)**

As the status quo option, option 1 represents the base case against which option 2 is compared. As this option entails no further Government action, it has no cost but produces no additional benefit. It also does not fully address the identified objectives of Government action.

Regional staffing could follow existing processes to receive and assess any applications from QYAC for the grant of water licences for various groundwater entitlements on the island in order to deliver the ex-mining water to the Quandamooka people but that would not progress commitments made to the Quandamooka people and may result in stakeholder dissatisfaction.

#### **Options 2 and 3**

A Cost-Benefit Analysis for options 2 and 3 is presented below and is assessed against option 1 which is reflective of the existing regulatory environment and can therefore be considered the base case. The availability of quantitative information is significantly limited, meaning that it is not possible to monetise nor quantify impacts to stakeholders. This means that the impacts have been assessed qualitatively.



Option 2 – Establishing a reserve	
	Qualitative benefits of option 2
Individuals – establishing reserves	This proposal will not affect any existing water entitlement holder nor an individual's right to take water from the island. This includes stock and domestic use, drinking water supply, or commercial operations. It also includes the rights of First Nations peoples to take water for cultural purposes.
Agencies/government – establishing reserves	<p>As above, this does not affect existing entitlement holders nor people's rights to take water in accordance with the Act.</p> <p>The administrative cost to Government for the granting of licences from unallocated water reserves is accounted for as normal business. These processes are run routinely across the State. There may be additional cost associated to Government for establishing the allocation policy and management rules for the first time (Post Regulation), this should be a one off cost because this is the first water reserve prescribed in regulation as opposed to under a water plan, which also contains the rules for allocating and managing reserves. Establishing appropriate policy and rules will involve the engagement of technical experts and the development of a groundwater model, as well as consultation with key stakeholders, such as the Quandamooka people, through QYAC. The Government has committed \$248 360 to technical expertise and groundwater model development for implementation of the Reserves.</p> <p>Under normal licensing processes (s107 of the Act) the chief executive is required to notify Native Title holders of any potential decision that may be a future act recognised under the Native Title Act. Generally, this process would be required for each application because the chief executive is not able to foresee who would make applications, where and for what amount in the future.</p> <p>Unallocated water reserves that have been assessed and have rules developed for release and granting of entitlements, can be notified once and through the Class Notification process described in the Queensland Governments procedures for Native Title notifications. While it can't be quantified, this is an administrative cost saving to Government.</p>
Businesses/Community – establishing reserves	<p>As above, this does not affect existing licences nor rights to take water.</p> <p>It is expected that QYAC will put processes in place to enable commercial arrangements with third parties to access groundwater under QYAC management. This may require additional departmental resourcing for future policy development</p>
Environmental – establishing reserves	<p>Up to 61,190 ML is potentially available for the reserve which represents the total annual maximum volume provided to sand mining.</p> <p>Half of this available water is being reserved for the health of the environment and island ecosystem.</p> <p>DRDMW, in collaboration with QYAC, will be developing a new groundwater model that will include hydrological, climate, cultural and ecological information. This will give us a more complete</p>

	<p>understanding of how these reserves should be managed going forward. It will also support future decision making.</p>
<p>Individuals – QYAC as an entity on behalf of the Quandamooka people</p>	<p>QYAC is the Registered Native Title Body Corporate on behalf of the Quandamooka people and has been working with DRDMW for several years to gain traditional owner inclusion in water management on North Stradbroke Island (Minjerribah).</p> <p>In July 2011, <i>Delaney on behalf of the Quandamooka People #1 vs State of Queensland [2011] FCA 741 (4 July 2011)</i> and <i>Delaney on behalf of the Quandamooka People #2 vs State of Queensland [2011] FCA 741 (4 July 2011)</i> were handed down by the Federal Court of Australia.<sup>1</sup> QYAC is the registered native title body corporate as determined by the Quandamooka People in each of Quandamooka People #1 and Quandamooka People #2 and subsequently reconfirmed in Anderson on behalf of Quandamooka People (Mulgumpin/Moreton Island Claim) vs State of Queensland (No. 2) in 2019 through the Federal Court of Australia.</p> <p>QYAC is further recognised as the appropriate entity on behalf of the Quandamooka people through the creation of an Indigenous Land Use Agreement (ILUA) with the Queensland Government in 2011. The purpose of the ILUA is to provide consent for agreed acts and matters relating to the native title right and interests of the Quandamooka people.</p>
<p>Businesses/Community – QYAC as an entity on behalf of the Quandamooka people</p>	<p>Being declared an entity does not in-itself impose any regulatory burdens on QYAC, it simply allows them to hold a water licence not attaching to land if they so choose</p>
<p>Individuals/Businesses/Community – process for releasing unallocated water</p>	<p>Amending section 16 of the 2016 Regulation is a minor administrative change that connects this section to the relevant provisions of the Act. It clarifies the same process is followed for the release of water whether its water reserved in a regulation or in a water plan.</p>

Option 3 – creating or amending a water plan

	<p><b>Qualitative benefits of option 3</b></p>
<p>Individuals – creating or amending a water plan</p>	<p>This proposal will not affect any existing water entitlement holder nor people’s rights to take water from the island. This includes stock and domestic use, drinking water supply or commercial operations. It also includes the rights of First Nations peoples to take water for cultural purposes.</p> <p>Creating or amending a water plan may specify the sustainable limits of extraction for the island based on the outcomes of a groundwater model. This would restrict the abilities of any other party being able to access additional groundwater that might increase the potential stress of the groundwater system.</p>

<sup>1</sup> These native title determinations of Quandamooka #1 and #2 includes 54,408 hectares of land and waters on and surrounding North Stradbroke Island, including areas of national parks, reserves, unallocated State land and other leases (National Native Title Tribunal, 2011). Exclusive native title rights were found in relation to 2,264 hectares of land and non-exclusive native title rights were found over approximately 22,639 hectares of onshore areas, and over about 29,505 hectares of offshore areas (National Native Title Tribunal, 2011).

	A water plan could also specify simple trading rules to minimise DRDMW resourcing to allow for relocation of groundwater extraction in line with those rules.
Agencies/government – creating or amending a water plan	Creating or amending a water plan is a complex process that requires advanced planning. Appropriately resourcing and the impact on Government costs will need to be considered. The water plan process is collaborative with other agencies and requires commitment across multiple departments.
Businesses/Community – creating or amending a water plan	Creating or amending a water plan includes a focus on businesses and community needs while ensuring that water resources are managed in a sustainable manner for both economic and communal interests. By establishing sustainable water usage and extraction limits, businesses can be assured of long-term resource availability, enabling more confident planning and investments. For the community, a clear and effective water plan ensures water equity, where all members have fair access to water for their needs. Furthermore, involving businesses and the community in a comprehensive and multi-year planning process promotes ownership of the plan, ensuring better adherence and mutual respect for the established guidelines. Collaboration with First Nations peoples in water planning ensures that traditional and cultural water needs are addressed, fostering potential for a more a inclusive and holistic approach to water management.
Environmental – creating or amending a water plan	<p>Creating or amending a water plan would identify sustainable limits that are derived from many information sources including groundwater modelling and would need to be appropriately informed by the Quandamooka people.</p> <p>Such a water plan would need extensive detailed datasets to specify sustainable limits and extraction conditions to ensure social, economic and environmental aspirations, including climate change considerations. Consideration would need to be given to the appropriate scope and scale of a water plan with consideration of neighbouring sand masses and groundwater systems such as Moreton Island (Mulgumpin) and K’Gari.</p>

**Who was consulted?**

DRDMW has developed the proposal in conjunction with QYAC which is the Registered Native Title Body Corporate for the Quandamooka people.

Following the Minjerribah Ministerial Forum in 2018, several groups have been formed to help transition North Stradbroke Island (Minjerribah), in particular;

- the Minjerribah (Quandamooka Country) Steering Committee is a larger multi-departmental group tasked with transitioning the island away from sand mining and working toward land rehabilitation and returning the land to the Quandamooka people; and
- the Minjerribah Water Working Group was established this year between DRDMW and QYAC to develop and progress water initiatives that involve traditional owners in water management.

The working group has also been consulting and progressing this initiative through the steering committee.

The Minister released an information paper and consulted publicly on this proposal between 5 October 2023 and 20 October 2023 on the DRDMW website. Twenty-nine submissions were received; twenty-four submitters supported the proposal, two submissions disagreed and three were neutral. Generally, the main questions raised were in relation to wanting more detail about the implementation of reserves and ensuring that water resource management decisions would be backed by appropriate assessments and models.



**What is the recommended option and why?**

On balance, it is considered that amending the 2016 Regulation to prescribe QYAC as an entity and establish two water reserves for the Quandamooka people on North Stradbroke Island (Minjerribah) is the most effective approach to achieving the objectives of Government action.

**Impact assessment**

**North Stradbroke Island (Minjerribah)**

	First full year	First 10 years**
Direct costs – Compliance costs*	\$0	\$0
Direct costs – Government costs	\$248,360	\$0

**Signed**

Bernadette Zerba  
 Acting Director-General  
 Department of Regional Development,  
 Manufacturing and Water  
 Date: 15/11/23

Glenn Butcher MP  
 Minister for Regional Development and  
 Manufacturing and Minister for Water  
 Date: 20/11/23