

# Guideline

Water Act 2000

## Baseline assessment plans

*The purpose of this document is to assist resource tenure holders in preparing and complying with a baseline assessment plan in accordance with sections 397 to 401 of the Water Act 2000.*

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## 1 Introduction

Under the *Water Act 2000* (the Water Act) resource tenure holders are required to prepare and submit a baseline assessment plan (BAP) for the area of the holder's tenure to the chief executive of the Department of Environment, Science and Innovation (the department). A BAP identifies water bores located on a holder's tenure and sets out a timetable for undertaking baseline assessments of those bores.

A baseline assessment is defined in section 394 of the Water Act as an assessment of a water bore undertaken by a resource tenure holder to obtain information about the bore, including the following:

- 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.

The requirement to undertake baseline assessments is a key step in the process of managing the impacts of resource tenure holder's exercising their underground water rights.

## 2 Who must prepare a BAP?

The requirements for BAPs apply to certain resource tenure holders including:

- holders of an authority to prospect or a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004* or the *Petroleum Act 1923*; and
- holders of a mineral development licence or mining lease under the *Mineral Resources Act 1989*.

If the tenure holder is the holder of multiple tenures, the tenure holder may choose to submit one BAP that includes multiple tenures.

## 3 What if there are no water bores on the tenure?

It is the responsibility of the resource tenure holder to identify whether any water bores, registered or unregistered, exist on tenure. The existence of water bores on the tenure should be verified by contacting each landholder. Where it can be verified that there are no water bores located in the area of a resource tenure, a BAP is not required. If a BAP is not required, the resource tenure holder should advise the chief executive of the department as early as possible. If a bore is later identified on the tenure, the resource tenure will be required to prepare a BAP.

## 4 When must a BAP be provided?

For petroleum tenure holders, a BAP must be provided to the chief executive before the start day for the petroleum tenure, unless a longer period is agreed to by the chief executive.<sup>1</sup>

Section 362 of the Water Act defines the start day<sup>2</sup> for a petroleum tenure as the earlier of the following—

- the day production testing starts in the area of the petroleum tenure; or
- the day production of petroleum starts in the area of the petroleum tenure.

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<sup>1</sup> If production testing or production of petroleum had already started for a petroleum tenure prior to 1 December 2010, a BAP for the tenure was required to be submitted to the department 30 business days after 1 December 2010, unless longer period was agreed to by the chief executive.

<sup>2</sup> If production testing or production of petroleum had already started for a petroleum tenure prior to 1 December 2010, the start day for the tenure is taken to be 1 December 2010.

For mining tenure holders, a BAP must be provided to the chief executive before the holder exercises their underground water rights for the tenure, unless a longer period is agreed to by the chief executive.

The chief executive may also direct a mining tenure holder to prepare and submit a BAP by giving the tenure holder a notice under section 394A(5)(a) of the Water Act.

Failing to provide a BAP to the chief executive within the required timeframe is an offence.

- The maximum penalty for an individual is 500 penalty units.
- The maximum penalty for a corporation is 2,500 penalty units.

## **5 What if a BAP cannot be submitted within the required time?**

The chief executive may consider extending the timeframe for submitting a BAP. However, to seek an extension, a written request should be submitted to the department as early as possible. The request should include the following information:

- a status report on the work undertaken so far in preparing the BAP;
- an explanation as to why the BAP cannot be submitted within the legislative timeframe;
- detail concerning the proposed date for the commencement of production testing or production (for petroleum tenures) or the proposed date for commencement of underground water rights (for mining tenures);
- a commitment to a new due date for the submission of the BAP; and
- a detailed rationale for this proposed date.

The chief executive will advise a resource tenure holder in writing of the outcome of an extension request.

## **6 Does a BAP need to include the entire resource tenure?**

As a result of the operation of the petroleum tenure framework, some authority to prospect tenures may include blocks which are not contiguous<sup>3</sup> with any other block of the authority.

The chief executive may accept a BAP for an authority to prospect that excludes a block if:

- the block is not contiguous with any other block of the tenure; and
- no production testing or production is being undertaken or planned to be undertaken on the block.

The chief executive may also accept a BAP that excludes an area of a resource tenure if the tenure holder can demonstrate to the chief executive's satisfaction that any relevant aquifer in the area is not affected, or likely to be affected, because of the exercise of the holder's underground water rights.

If a resource tenure holder intends to submit a BAP which does not include the entire tenure, the tenure holder should contact the department prior to submitting the BAP to:

- discuss the justification for excluding part of the tenure from the BAP; and
- to seek endorsement for excluding part of the tenure from the BAP.

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<sup>3</sup> Blocks which are not contiguous includes blocks which are not located next another block or do not share a common border with another block.

## **7 What must be included in a BAP?**

The department recommends that the resource tenure holder, in preparing the BAP, undertake a search of the Department of Natural Resources, Mines and Energy groundwater database to identify all existing water bores located on tenure.

To meet the requirements of section 397(4) of the Water Act, a BAP for a resource tenure area must:

- identify any bores on the tenure for which a baseline assessment has already been undertaken, and this information should be presented, preferably in a table, and include the following:
  - the unique identifier for these bores;
  - the tenure which they are located; and
  - the date that the baseline assessment was undertaken.
- identify each area of the tenure which contains, or may contain, bores which have not yet been baseline assessed (each such area is referred to as a priority area). Each bore that has not had a baseline assessment completed must be located in a priority area and the full area of the tenure must be covered by the BAP. The identification of priority areas may be undertaken in a table or a map.
- provide a timetable for undertaking baseline assessments of bores in each priority area. This timetable must state the date (day/month/year) by which all baseline assessments in each priority area will be undertaken. The timetable must also meet the requirements of section 398 of the Water Act, which are explained in the following section of the document.
- include a rationale for each date outlined in the baseline assessment timetable. A rationale should provide sufficient information to explain each proposed date for undertaking baseline assessments. This may include information in relation to:
  - future production plans;
  - current or forecast water production;
  - the proximity of bores to existing and planned petroleum wells and how this affects their prioritisation for assessment;
  - resource constraints; and
  - anticipated or potential delays.

To further assist tenure holders in preparing a BAP, Appendix A provides examples of how the required information may be included in a BAP.

## **8 What is a baseline assessment timetable?**

A baseline assessment timetable identifies all the outstanding baseline assessments and the date for undertaking the assessments. It applies to all bores located in priority areas (i.e. those areas with bores for which baseline assessment has not been completed). A baseline assessment timetable must meet the requirements of section 398 of the Water Act.

If the BAP relates to a petroleum tenure, section 398(1) provides that a baseline assessment timetable must provide for baseline assessments to be undertaken by the earliest of the following:

- before production testing starts if:
  - the bore in the priority area is located within two kilometres of the production testing; and
  - during the production testing, water will be taken from the aquifer supplying the water bore; or
- before production of petroleum starts in the priority area; or
- the day after a period of 30 days, whether continuous or not, of undertaking production testing in the priority area.

However, if the tenure holder obtains the written agreement of the owner of the bore, the baseline assessment for that particular water bore, may be undertaken on a later date than that specified above.

If the BAP relates to a mining tenure, the requirements for a baseline assessment timetable will depend on whether or not the tenure holder was directed to prepare the BAP under section 394A(5)(a) of the Water Act. If the tenure holder was directed to prepare the BAP under 394A(5)(a), the baseline assessment timetable must state a day by which a baseline assessment will be undertaken for each bore in a priority area. Otherwise, section 398(4) provides that a baseline assessment timetable for a mining tenure BAP must provide for baseline assessments to be undertaken before the exercise of underground water rights in the priority area.

Please refer to the Appendix A for an example baseline assessment timetable.

## **9 How is a BAP assessed?**

The chief executive will assess all BAPs. Depending on whether the BAP meets statutory requirements, the chief executive may choose to approve the BAP as submitted or approve it with conditions that the holder must comply with. If a BAP is deemed to be inadequate, the chief executive can also direct a resource tenure holder to modify and resubmit the BAP for approval within a stated reasonable period.

Failing to resubmit an amended BAP within a stated reasonable period is an offence.

- The maximum penalty for an individual is 50 penalty units.
- The maximum penalty for a corporation is 250 penalty units.

Within 10 business days after making a decision in relation to a BAP, the chief executive must give notice of the decision to the resource tenure holder.

## **10 What does approval of a BAP mean?**

If a BAP is approved, the BAP will take effect on the date stated in the approval notice. Once a BAP takes effect, the holder must undertake the baseline assessments in accordance with the BAP.

Failing to undertake baseline assessments in accordance with an approved BAP is an offence, unless the holder has a reasonable excuse.

- The maximum penalty for an individual is 500 penalty units.
- The maximum penalty for a corporation is 2,500 penalty units.

In the event that there is a need to substantiate a reasonable excuse, resource tenure holders must maintain written records outlining attempts to comply with the timetable presented in the BAP.

## **11 Can a BAP be amended?**

Section 401 outlines the circumstances when a resource tenure holder may apply to amend their approved BAP as well as the circumstances in which a resource tenure holder must apply to amend their approved BAP.

A resource tenure holder may apply in writing to the chief executive to amend the holder's approved BAP at any time. However, a resource tenure holder must apply to amend their approved BAP if the tenure holder becomes aware of a material change to the holder's program of activities that may cause the holder's baseline assessment timetable to not comply with section 398.

For BAPs that excluded part of a tenure, the tenure holder must also apply to amend their BAP if, for an area excluded from the BAP:

- there is a material change in the holder's program for production testing for blocks which are not contiguous; or
- the holder becomes aware a relevant aquifer is being, or is likely to be, affected by the exercise of the holder's underground water rights by more than the bore trigger threshold for the aquifer.

Any application to amend a BAP must state the reasons for seeking an amendment, and be submitted to the chief executive in writing. Depending on whether the amendment application meets the statutory requirements, the chief executive may choose to approve the amendment with, or without, conditions. If the proposed amendment is deemed to be inadequate, the chief executive can direct petroleum tenure holders to amend and resubmit the application within a stated reasonable period.

Within 10 business days after making a decision in relation to an amendment application, the chief executive must give notice of the decision to the petroleum tenure holder.

## **12 Undertaking baseline assessments**

The department has developed a Baseline Assessment Guideline (ESR/2016/1999<sup>4</sup>) that provides guidance regarding the undertaking of baseline assessments.

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<sup>4</sup> This is the publication number, which can be used as a search term to find the latest version of the publication at [www.des.qld.gov.au](http://www.des.qld.gov.au).

## Appendix 1—Example BAP requirements

### Identification of all bores in the tenure area

The following table provides an example of how to identify all bores within a tenure area. A labelled map could also be used to clearly identify all bores within a tenure.

Bore Registration (RN)	Local Bore Name	Tenure Number	Lot and Plan	RN Coordinate E_GDA2020	RN Coordinate N_GDA2020
RN 11111	Jack's Bore	ATP 112	1KM123	150.123456	-25.123456
RN 11112	Jill's Bore	ATP 112	1KM234	150.234567	-25.234567
Unregistered	Hill Bore	ATP 112	2SP123456	150.345678	-25.345678

### Bores with completed baseline assessment

The following table provides an example of how to identify completed baseline assessments. A labelled map could also be used to clearly identify the bores within a tenure which have had a baseline assessment completed.

Bore Registration (RN)	Local Bore Name	Tenure Number	Lot and Plan	RN Coordinate E_GDA2020	RN Coordinate N_GDA2020	Date Baseline Assessment Completed
RN 11112	Jill's Bore	ATP 112	1KM234	150.234567	-25.234567	1/11/2015

### Baseline assessment timetable

The following table provides an example of a baseline assessment timetable.

Bore Registration (RN)	Local Bore Name	Tenure Number	Lot and Plan	RN Coordinate E_GDA2020	RN Coordinate N_GDA2020	Priority Area	Baseline Assessment Date
RN 11112	Jill's Bore	ATP 112	1KM234	150.234567	-25.234567	1	1/1/2016
Unregistered	Hill Bore	ATP 112	2SP123456	150.345678	-25.345678	2	1/1/2018

**Disclaimer**

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**Enquiries:**

Energy and Extractive Resources Business Centre  
Department of Environment, Science and Innovation  
Ph. 13 QGOV (13 74 68)  
Fax. (07) 3330 5634

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1.00	06 December 2016	First published version of the guideline.
1.01	01 August 2018	The document template, header and footer have been updated to reflect current Queensland Government corporate identity requirements and comply with the Policy Register.
1.02	23 February 2024	Document rebranded to align with machinery of government changes