

SPECIAL COUNCIL MEETING 21 OCTOBER 2014	3.1
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IMPLEMENTATION OF WATER RESTRICTIONS

Paul Hoyer General Manager Operations

RECOMMENDATION:

That Council resolves to:-

- 1. immediately implement Level 1 Water Restrictions as detailed in Schedule 1 of this report across all water supply schemes in the Douglas Shire in accordance with sections 41 and 43 of the Water Supply (Safety and Reliability) Act 2008 ("the Act"); and**
- 2. delegate to the Mayor and Chief Executive Officer (CEO) the authority to implement, if required, Level 2 Water Restrictions as described in Schedule 1 of this report in accordance with sections 41 and 43 of the Act; and**
- 3. delegate to the Mayor and CEO the power under section 41(1)(b) of the Act to restrict the volume of water taken by or supplied to a customer or type of customer in accordance with sections 41 and 43 of the Act; and**
- 4. delegate to the Chief Executive Officer the power under section 45 of the Act, to appoint Authorised Persons.**

EXECUTIVE SUMMARY:

Council is registered as a drinking water service provider under the Water Supply (Safety and Reliability) Act 2008 ("the Act"). Section 41 (1) of the Act gives a water service provider the power to restrict:

- (a) the volume of water taken by or supplied to a customer or type of customer; or
- (b) the hours when water may be used on premises for stated purposes; or
- (c) the way water may be used on premises.

The water service provider (WSP) may impose a restriction under subsection (1) (a) **service provider water restriction**) only if –

- (a) there is an urgent need for the service provider water restriction; or
- (b) the available water supply has fallen to a level at which unrestricted use of the water is not in the public interest; or
- (c) the service provider has a reasonable and comprehensive strategy for demand management for water and the restriction is essential to ensure the aims of the strategy are met.

Council is currently undertaking essential repair and upgrade work on the Rex Creek water intake. This work requires the shut down of Council's Mossman water treatment plant while works are undertaken. The shutdown of the plant causes a depletion of the water storage reservoirs and on current production it is taking around four days for adequate levels to return to the reservoirs. Due to continuing dry weather conditions, the levels in Rex Creek supply have fallen to levels that are restricting the amount of water which can be taken from the creek. In addition to the above, the current demand on this supply is close to exceeding the ability of the plant to treat and supply water.

Similarly supply levels in the Daintree and Whyanbeel schemes have fallen and demand has risen.

It is the opinion of the author that, in accordance with Section 43 (2) of the Act, the conditions for restricting water have been met in that:

1. there is an urgent need for the water restriction due the work occurring on the water intake in the Rex Creek supply; and
2. the available water supply has fallen to levels in all Council's schemes (Daintree, Whyanbeel and Mossman) at which unrestricted use of drinking water is not in the public interest. Current water usage for non- essential needs and the falling levels of the supply are causing demand to be very close to supply capabilities.

It is proposed that Level 1 Water Restrictions, as described in Schedule 1, be implemented immediately in accordance with the requirements of the Act and that the Mayor and (CEO) be delegated the authority to:

1. Implement Level 2 Water Restrictions as described in Schedule 1, if required; and
2. Restrict the volume of water taken by or supplied to a customer or type of customer;

It is further recommended that the CEO be delegated the authority to appoint Authorised Persons in accordance with Section 45 of the Act. The appointment of Authorised Persons will allow Council, as the WSP, to enforce water restrictions where necessary.

BACKGROUND:

The Douglas Shire is experiencing continued dry weather and high demand for drinking water. Water levels in Rex Creek have now fallen to levels that limit the ability of the Mossman Water Treatment Plant to produce drinking water to meet a very high demand. In addition to the weather and demand on water, Council is currently undertaking essential repair and upgrade work on the Rex Creek water intake. This work can only be undertaken while water volumes are at their lowest levels and cannot be rescheduled closer to the wet season. Timing of this work has taken into consideration that the peak of the tourist season has now passed.

The essential upgrade work requires the shut down of Council's Mossman water treatment plant while works are undertaken.

The shutdown of the plant causes a depletion of the water reservoirs and it takes a number of days for adequate levels to be returned. Mitigation measures are being explored to allow the completion of the required works on the Rex Creek intake, however it is expected that unless there is significant rainfall in the catchment or a sharp decline in demand, then the continued unrestricted use of drinking water, particularly for the extensive watering of resort gardens will mean that supply cannot be guaranteed and that unrestricted use is not in the public interest.

Council staff have visited a number of accommodation premises in the past few weeks requesting that irrigation and water usage be limited as much as possible. In addition Council's Open Spaces section is operating under direction whereby any irrigation must be approved by Council's Manager of Water and Wastewater. These measures have done little to alleviate the current high water demand for water. Although occupancies in Port Douglas have fallen in the past two weeks, irrigation and water usage have not fallen markedly. Water usage at two accommodation premises were measured by staff and found to be at 318 and 294 Litres/minute, meaning that these two premises combined are possibly using 880 000 litres of water in a 24 hour period. Council, as the WSP must implement water restrictions on the time and way water is used, restrict the volume of water taken by or supplied to a customer or type of customer and appoint Authorised Persons to enforce restrictions, including the ability to issue penalty infringements, if it is to ensure the supply of water for essential domestic and commercial requirements.

Increased pressure on water supplies is also occurring in the Daintree and Whyanbeel schemes due to falling creek levels and increased demand and so it is considered necessary to include these schemes in any implementation of water restrictions.

Section 41(1) of the Water Supply (Safety and Reliability) Act 2008 provides the head of power for implementation of water restrictions for Council as a WSP and Section 41(2) provides the conditions for restriction of water including urgent need and where available water supply has fallen to a level at which unrestricted use of the water is not in the public interest.

Section 42 of the Water Supply (Safety and Reliability) Act 2008 provides the requirements that the water service provider must follow in giving notice of a service provider water restriction imposed by the service provider to anyone affected by it.

It is proposed that the declaration and revocation of water restrictions will be by public notice. Generally, this will be by means of a public notice published in newspapers circulating in the Douglas Shire area. The notice will specify the areas to which the water restrictions apply, the level of restrictions, including an outline of permitted hours and use of water, the period of operation of the declaration, penalties for contravention and contacts for further information. This information will be made available on the Council's website.

Section 45 (1) and (2) of the Water Supply (Safety and Reliability) Act 2008 provides for the appointment of Authorised Persons under the Act. Section 43(5) of the Water Supply (Safety and Reliability) Act 2008 sets the maximum penalty for contravention of a water restriction:

- (a) for a non-residential customer—1665 penalty units; or
- (b) for any other person—200 penalty units.

For Council's information a Penalty Infringement Notice issued to a residential customer for breaching water restrictions would amount to \$341.00 and for a non-residential customer it is \$1707.00

The State Penalties Enforcement Act 1999 provides the head of power for an infringement notice offence that is issued under the Water Supply (Safety and Reliability) Act 2008, section 43(5)

COMMENT:

It is the opinion of the author that, in accordance with Section 43 (2) of the Act, the conditions for restricting water have been met in that:

1. there is an urgent need for the water restriction due the work occurring on the water intake in Rex Creek; and
2. the available water supplies have fallen to a level at which unrestricted use of the water is not in the public interest. The use of water for none essential needs and the falling levels of the supply creeks are causing demand to be very close to supply capabilities.

Council is responsible for providing a reliable water supply to its customers. Water restrictions are necessary to ensure that the consumption does not outweigh supply, and that the water infrastructure can cope with the level of demand. Without effectively monitoring and managing water, the Shire could face serious water supply issues, which would have an adverse impact on water customers.

Council, as the WSP, needs to put in place Water Restrictions in accordance with the requirements of the Act to ensure that the supply of drinking water to customers for essential purposes.

If a WSP does not implement restrictions the Regulator, under section 42 of the Act, can direct the WSP to implement a restriction in accordance with section 41 of the Act. Section 42 applies if the regulator considers:

- (a) there is a significant threat to sustainable and secure water supply in an area; and
- (b) it is necessary or desirable to impose a restriction under section 41 on the area or another area.

PROPOSAL:

It is proposed that Council, as the WSP, resolve to:

1. immediately implement Level 1 Water Restrictions as detailed in Schedule 1 of this report across all water supply schemes in the Douglas Shire in accordance with sections 41 and 43 of the Act; and
2. delegate to the Mayor and Chief Executive Officer (CEO) the authority to implement , if required, Level 2 Water Restrictions as described in Schedule 1 of this report and in accordance with sections 41 and 43 of the Act; and
3. delegate to the Mayor and CEO the power under section 41(1)(b) of the Act to restrict the volume of water taken by or supplied to a customer or type of customer in accordance with sections 41 and 43 of the Act; and
4. delegate to the Chief Executive Officer the power under section 45 of the Act, to appoint Authorised Persons.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE:

Theme 5 Governance, Goal 2:

To demonstrate leadership in local government through sound, transparent, accountable and equitable decision making.

COUNCIL’S ROLE:

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council’s involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

<input type="checkbox"/>	<input checked="" type="checkbox"/>				
Information Provider	Advocate	Facilitator	Agent	Part Funder	Asset Owner
					<input checked="" type="checkbox"/>
					Fully Responsible
					<input checked="" type="checkbox"/>
					Regulator

Asset Owner:	Meeting the responsibilities associated with owning or being the custodian of assets such as infrastructure.
Fully Responsible:	Funding the full cost of a program or activity.
Regulator:	Meeting the responsibilities associated with regulating activities through legislation or local law.

FINANCIAL/RESOURCE IMPLICATIONS:

There may be some impact on Council's income that is derived directly from water consumption as water consumption falls as a result of the water restrictions.

There will be an impact on Council's staff in patrolling and enforcing water restrictions. These impacts will be closely monitored and the necessary actions taken to ensure that resources are appropriate to the situation, particularly if the dry weather continues.

RISK MANAGEMENT IMPLICATIONS:

Council is responsible for providing a reliable water supply to its customers. Water restrictions are necessary to ensure that the consumption does not outweigh supply, and that the water infrastructure can cope with the level of demand. Without effectively monitoring and managing water, the Shire could face serious water supply issues, which would have an adverse impact on water customers. The introduction of Level 1 Restrictions in the first instance and implementation of Level 2 Restrictions if deemed necessary will assist Council in ensuring that customers are not adversely impacted in regards to the supply of water.

SUSTAINABILITY IMPLICATIONS:**ECONOMIC:**

There is expected to be some loss of income to Council as a result of reduced water consumption.

ENVIRONMENTAL:

No environmental impacts are expected as a result of implementing water restrictions.

SOCIAL:

The implementation of water restrictions is necessary to ensure the supply of water to customers. Level 1 and Level 2 water restrictions will have little real effect on current customers. If water supply issues are not addressed and Council is put in a position where the supply to customers is compromised there will be significant impacts on the communities connected to the water supply system.

INTERNAL/EXTERNAL CONSULTATION:

Consultation has occurred internally amongst Council's Water and Local Laws areas.

ATTACHMENTS:

Schedule 1 – Water Restrictions

Attachment – Schedule 1 – Water Restrictions

SCHEDULE 1 – WATER RESTRICTIONS		
PURPOSE	LEVEL 1 (Minor)	LEVEL 2 (Medium)
Private gardens and lawns	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days No Watering on Mondays Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Sprinkler Hand-held trigger or twist nozzle Irrigation system Watering can or bucket 	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Hand-held trigger or twist nozzle Irrigation system (gardens only, no grassed areas) Watering can or bucket
Public parks, gardens and sports grounds	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days No Watering on Mondays Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Sprinkler Hand-held trigger or twist nozzle Irrigation system Watering can or bucket Non-active playing surfaces must not be watered. 	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Hand-held trigger or twist nozzle Irrigation system (gardens only, no grassed areas) Watering can or bucket
Commercial market garden and plant nursery	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days No Watering on Mondays Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Sprinkler Hand-held trigger or twist nozzle Irrigation system Watering can or bucket Non-active playing surfaces must not be watered. 	<ul style="list-style-type: none"> Watering is only permitted between the hours of 6am – 9am and 6pm – 9pm on alternate days Watering only permitted during these hours on alternate days with a: <ul style="list-style-type: none"> Hand-held trigger or twist nozzle Irrigation system (gardens only, no grassed areas) Watering can or bucket

Swimming pools and spas	Private: <ul style="list-style-type: none"> New and existing swimming pools, spas and portable wading pools must only be filled or topped up to their minimum operating level Public: <ul style="list-style-type: none"> New and existing swimming pools and spas must only be filled or topped up to their minimum operating level 	Private: <ul style="list-style-type: none"> New and existing swimming pools, spas and portable wading pools must only be filled or topped up to their minimum operating level Public: <ul style="list-style-type: none"> New and existing swimming pools and spas must only be filled or topped up to their minimum operating level
Ponds, fountains and water ornaments	<ul style="list-style-type: none"> New and existing ponds, fountains and water ornaments must only be filled or topped up to their minimum operating level Fountains and water ornaments must not operate unless they recycle the water contained 	<ul style="list-style-type: none"> New and existing ponds, fountains and water ornaments must only be filled or topped up to their minimum operating level Fountains and water ornaments must not operate unless they recycle the water contained
Water toys / facilities	<ul style="list-style-type: none"> Water toys / facilities may be used provided they are operated in an efficient way to ensure that water is not excessively wasted. 	Water toys / facilities may be used provided they are operated in an efficient way to ensure that water is not excessively wasted. <ul style="list-style-type: none"> Water must be recirculated through the equipment.
Dams and tanks	<ul style="list-style-type: none"> Water storage tanks providing water for fire fighting, public health or stock water purposes may be used to the extent necessary to reasonably provide such purposes Tank filling in designated 'tank replenishment scheme' areas are excluded, however use must comply with all other water restrictions 	<ul style="list-style-type: none"> Water storage tanks providing water for fire fighting, public health or stock water purposes may be used to the extent necessary to reasonably provide such purposes Tank filling in designated 'tank replenishment scheme' areas are excluded, however use must comply with all other water restrictions

SCHEDULE 1 – WATER RESTRICTIONS		
PURPOSE	LEVEL 1 (Minor)	LEVEL 2 (Medium)
Mobile water tankers	<ul style="list-style-type: none"> • Mobile water tankers, other than tankers directly used for fire fighting purposes, must not be filled with water from the water supply system except: <ul style="list-style-type: none"> – By means of a metered standpipe issued by Douglas Shire Council for the specific time period for domestic purposes – By means of Douglas Shire Council tankers filled Monday to Friday at council depots from designated metered connection points for public streets and parks – Any other purpose is by way of exemption from Douglas Shire Council and by means of a metered standpipe issued for the specific time period and designated area • Tank filling in designated 'tank replenishment scheme' areas are excluded; however must comply with all other conservation measures 	<ul style="list-style-type: none"> • Mobile water tankers, other than tankers directly used for fire fighting purposes, must not be filled with water from the water supply system except: <ul style="list-style-type: none"> – By means of a metered standpipe issued by Douglas Shire Council for the specific time period for domestic purposes – By means of Douglas Shire Council tankers filled Monday to Friday at council depots from designated metered connection points – Any other purpose is by way of exemption from Douglas Shire Council and by means of a metered standpipe issued for the specific time period and designated area • Water for dust suppression is not permitted • Tank filling in designated 'tank replenishment scheme' areas are excluded; however must comply with all other conservation measures
Vehicles and boats	<ul style="list-style-type: none"> • Water may be used to clean vehicles and boats by means of: <ul style="list-style-type: none"> – A hand-held trigger or twist nozzle to initially wet or rinse after washing – High-pressure low-volume water blaster – Watering can or bucket – Commercial car wash facility • Vehicles and boats must be washed on grassed areas where possible • Out-board motors may be flushed clean after use 	<ul style="list-style-type: none"> • Water may be used to clean vehicles and boats by means of: <ul style="list-style-type: none"> – A hand-held trigger or twist nozzle to initially wet or rinse after washing – Watering can or bucket – Commercial car wash facility that recycles at least 50% of the water used • Vehicles and boats must be washed on grassed areas where possible • Out-board motors may be flushed clean after use

PURPOSE	LEVEL 1 (Minor)	LEVEL 2 (Medium)
Paved areas, driveways, house and window cleaning	<ul style="list-style-type: none"> • Water must not be used to clean paved areas, driveways, houses and windows, except by means of a: <ul style="list-style-type: none"> - Watering can or bucket 	<ul style="list-style-type: none"> • Water must not be used to clean paved areas, driveways, houses and windows, except by means of a: <ul style="list-style-type: none"> - Watering can or bucket
Commercial businesses (meat processing, animal husbandry, construction)	<ul style="list-style-type: none"> • Water may be used in commercial businesses provided: <ul style="list-style-type: none"> - Water is used efficiently by means of a hand-held trigger or twist hose or bucket - Equipment that relies on a water supply for its safe and efficient operation is used so as to prevent wastage of water 	<ul style="list-style-type: none"> • Water may be used in commercial businesses provided: <ul style="list-style-type: none"> - Water is used efficiently by means of a hand-held trigger or twist hose or bucket - Equipment that relies on a water supply for its safe and efficient operation is used so as to prevent wastage of water
Other purposes not listed except for domestic use, fire fighting and public health	Water shall not be used except by way of exemption from Douglas Shire Council	Water shall not be used except by way of exemption from Douglas Shire Council

4.1 Definitions

To assist in interpretation the following definitions shall apply:

“Active playing surface” shall mean a grass or synthetic area for playing sports such as a tennis court, turf cricket pitch, running track, hockey pitch, bowling green, croquet green, golf green or tee, football, soccer, volleyball, netball or basketball field and any similar area.

“Alternate days” shall mean designated days of water use, such that where permitted in Schedule 1:

- (a) Properties with an odd street number may water on Wednesday, Friday and Sunday;
- (b) Properties with an even street number may water on Tuesday, Thursday and Saturday;
- (c) Properties without a Council prescribed street number may water on Wednesday, Friday and Sunday

No watering is permitted on Mondays.

“Authorised Officer” shall mean a person authorised by Douglas Shire Council to exercise the powers of an authorised person under the Water Act and State Penalties Enforcement Act.

“Commercial market garden or plant nursery” shall mean land used primarily for the growing of plants including produce and turf for sale or distribution for profit.

“Domestic purposes” shall mean potable water taken from the water supply system inside any premise for drinking, cooking, washing persons and clothes, use for dishwashing, or cleaning, heating and cooling a building.

“Drip system” shall mean a watering system that restricts the flow of water to a nominal amount such as an emitter and applies water directly to the soil around plants and must incorporate a manual or automatic timer in operational condition.

“Exemption” shall mean permission approved by Douglas Shire Council in writing and accepted by an applicant that modifies or waives any water conservation measure under this policy.

“Exemption permit” shall mean a permit issued by Council granting an exemption from water conservation measures to an approved exemption holder. An exemption permit must be displayed in a prominent position on the property and will contain the name of the exemption holder, an approved property address, an approval number, any conditions attached to the approval and a commencement and expiry date or a Level to which the approval is given.

“Fixed sprinkler” shall mean a sprinkler supplied by a fixed pipe or hose.

“Hand-held hose” shall mean a hose or pipe used to convey water, held in the physical possession of a person or under the supervision of a person aged 16 years or over, controlling the efficient distribution of water.

"Microspray" shall mean a watering system that creates a fine jet or mist of water and must incorporate a manual or automatic timer in operational condition.

"Non-active playing surface" shall mean that area of any sports ground that is not an active playing surface as defined.

"Paved area" shall mean footpath, driveway, hard standing area or similar having an impervious surface such as concrete, asphalt, paving stones, tiles, etc.

"Portable wading pool" shall mean any demountable, temporary and transportable pool having a capacity less than or equal to 500 litres.

"Private pool and spa" shall mean any pool, spa or ornamental pond which is not a Douglas Shire Council owned public asset.

"Public pool" shall mean pools open to the public or individuals operated by Douglas Shire Council.

"Public spa" shall mean spas open to the public or individuals operated by Douglas Shire Council.

"Private garden" shall mean land, garden, lawn or grassed area used in relation to residential purposes, industrial, commercial or farming activities, hospitals and aged care facilities, schools, college, university and research facilities, cemetery or crematorium including any like area adjacent to a private garden, excluding sports ground contained within such.

"Public parks and gardens" shall mean land, garden, lawn or grassed area controlled by Douglas Shire Council or other statutory public authority including a nature strip, road verge, median strip, roundabouts, botanic gardens, and footpath.

"Sports ground" shall mean land used for the purpose of any sport, game or other form of recreation.

"Sprinkler" shall mean a pipe or hose system and nozzle, soaker-hose or similar device used to distribute, sprinkle or spray water in any manner other than by a hand-held hose excluding microspray and drip systems, misting systems used in the commercial propagation of seeds or fogging systems used in commercial poultry industry.

"Level" shall mean the increment as set out in Schedule 1 of this policy designating particular water conservation criteria.

"Timer" shall mean any electronic or mechanical timing device that is used to regulate the time and duration of water flow to a sprinkler, microspray or drip watering system.

"Trigger nozzle or twist nozzle" shall mean a control nozzle intended to be used by persons that stop the flow of water by means of a lever or similar device that positively shuts off the supply of water when released.

"Water" shall mean potable water supplied from Douglas Shire Council's water supply system.

“Water supply system” shall mean Douglas Shire Council’s infrastructure assets associated with the provision and distribution of water to customers, consumers, users and transporters of water.

“Water toys / facilities” shall mean any entertainment toy, facility or structure, which is operated by or uses non-recirculating running water from a hose or pipe as part of its use.