



Queensland

Water Resource (Mitchell) Plan 2007

Subordinate Legislation 2007 No. 269

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Water Act 2000

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Chapter 1 Preliminary

1 Short title

This water resource plan may be cited as the *Water Resource (Mitchell) Plan 2007*.

2 Purposes of plan

The following are the purposes of this plan—

- (a) to define the availability of water in the plan area;
- (b) to provide a framework for sustainably managing water and the taking of water;
- (c) to identify priorities and mechanisms for dealing with future water requirements;
- (d) to provide a framework for reversing, where practicable, degradation that has occurred in natural ecosystems;
- (e) to regulate the taking of overland flow water;
- (f) to regulate the taking of groundwater.

3 Definitions

The dictionary in schedule 7 defines particular words used in this plan.

Chapter 2 Plan area and water to which plan applies

4 Plan area

This plan applies to the area shown as the plan area on the map in schedule 1.

5 Groundwater management areas

Each part of the plan area that is within a groundwater management area shown on the map in schedule 2 is a groundwater management area for this plan.

6 Subcatchment area

The part of the plan area that is within the subcatchment area shown on the map in schedule 3 is a subcatchment area for this plan.

7 Declaration about watercourse—Act, s 1006(2)

- (1) Groundwater in an aquifer under a prescribed watercourse, or under land within the prescribed distance of a prescribed watercourse, is declared to be water in the watercourse.
- (2) Subsection (1) does not apply to water the chief executive is satisfied is not hydraulically connected to the water in the watercourse.
- (3) In this section—

prescribed distance means—

- (a) for a prescribed watercourse that is a river—1km; or
- (b) for a prescribed watercourse that is a creek—200m.

prescribed watercourse means each of the following—

- (a) Mitchell River;
- (b) Walsh River;
- (c) Lynd River;
- (d) Palmer River;
- (e) Alice River;
- (f) Mary Creek;
- (g) Bushy Creek;
- (h) Rifle Creek.

8 Information about areas

- (1) The exact location of the boundaries of the plan area, groundwater management areas, and the subcatchment area, is held in digital electronic form by the department.
- (2) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries.

9 Nodes

- (1) A node mentioned in this plan is a place on a watercourse in the plan area.
- (2) The location of each node is shown on the map in schedule 1 and described in schedule 4.
- (3) Each node is identified on the map by a number.

10 Water to which plan applies

- (1) This plan applies to the following water (*surface water*) in the plan area—
 - (a) water in a watercourse or lake;
 - (b) water in springs not connected to—
 - (i) GAB artesian water; or
 - (ii) GAB subartesian water;
 - (c) overland flow water, other than water in springs connected to—
 - (i) GAB artesian water; or
 - (ii) GAB subartesian water.
- (2) This plan also applies to the following water (*groundwater*) in the plan area—
 - (a) artesian water that is not GAB artesian water;
 - (b) subartesian water that is not GAB subartesian water.
- (3) In this section—

GAB artesian water means artesian water in the plan area under the *Water Resource (Great Artesian Basin) Plan 2006*.

GAB subartesian water means subartesian water connected to artesian water that is in the plan area under the *Water Resource (Great Artesian Basin) Plan 2006*.

Chapter 3 Outcomes for sustainable management of water

11 Outcomes for water in plan area

Water is to be allocated and sustainably managed in a way that—

- (a) recognises the natural state of watercourses, lakes, springs and aquifers has changed because of water infrastructure and the taking of water; and
- (b) seeks to achieve a balance in the following outcomes—
 - (i) the general outcomes mentioned in section 12;
 - (ii) the general ecological outcomes mentioned in sections 13 and 14;
 - (iii) the specific ecological outcomes mentioned in sections 15.

12 General outcomes

Each of the following is a general outcome for water in the plan area—

- (a) to provide for the use of all water entitlements and other authorisations in the plan area;
- (b) to provide for the continued use of all existing overland flow works;
- (c) to provide for the continued use of all existing water bores;
- (d) to make water available to support growth in industries dependent on water in the plan area;
- (e) to make water in Lake Mitchell available to be taken;

- (f) to make water available to support population growth in towns and communities dependent on water in the plan area;
- (g) to make water available to support growth in irrigated agriculture;
- (h) to make water available for helping indigenous communities in the Cape York Peninsula Region area to achieve their economic and social aspirations;
- (i) to encourage continual improvement in the efficient use of water;
- (j) to support water-related cultural values of Aboriginal and Torres Strait Islander communities in the plan area;
- (k) to support tourism in the plan area, including, for example, by protecting flows that support the natural aesthetics of watercourses and their surroundings;
- (l) to support commercial fishing in the Gulf of Carpentaria, including, for example, by protecting flood flows that may deliver nutrients and water to estuarine and marine environments to stimulate growth and movement of native aquatic animals, including fish, prawns and crabs;
- (m) to ensure water is available to support natural ecosystem processes;
- (n) to allocate and manage water in the upper Walsh River and the upper Mitchell River in a way that is compatible with the outcomes of the *Water Resource (Barron) Plan 2002* to the greatest practicable extent.

13 General ecological outcomes for both surface water and groundwater

- (1) Each of the following is a general ecological outcome for water in the plan area—
 - (a) to maintain the natural variability of flows that support the habitats of native plants and animals and migratory birds in watercourses, floodplains, wetlands, lakes and springs;

- (b) to provide for the continued capability of one part of a river system to be connected to another, including by maintaining flood flows that—
 - (i) allow for the movement of native aquatic animals between riverine, floodplain, wetland, estuarine and marine environments; and
 - (ii) deliver nutrients and organic matter throughout the plan area to support natural processes such as breeding, growth and migration in riverine, floodplain, wetland, estuarine and marine environments; and
 - (iii) deliver water and sediment throughout the plan area to support river-forming processes;
 - (c) to minimise changes to natural variability in water levels and to support natural ecological processes, including maintaining refugia associated with waterholes and lakes;
 - (d) to maintain the permanence of water in naturally perennially flowing watercourses and in river bed sands that provide water to support native plants and animals, particularly during dry seasons;
 - (e) to promote improved understanding of the matters affecting flow-related health of ecosystems within the plan area.
- (2) In this section—

refugia means the habitat required by a species during a time of stress, for example, drought.

14 General ecological outcomes for groundwater only

Each of the following is a general ecological outcome for groundwater in the plan area—

- (a) to maintain groundwater contributions to the flow of water in watercourses, lakes and springs;
- (b) to support the ecosystems dependent on groundwater, including, for example, riparian vegetation, wetlands and waterholes;

- (c) to allocate and manage groundwater in a way that is compatible with the outcomes of the *Water Resource (Great Artesian Basin) Plan 2006* to the greatest practicable extent.

15 Specific ecological outcomes

Each of the following is a specific ecological outcome for water in the plan area—

- (a) to maintain the cultural, ecological and tourism values of the cave ecosystems of the Chillagoe-Mungana Caves National Park;
- (b) to maintain flood flows to the estuarine and marine environments of the Gulf of Carpentaria to stimulate breeding, growth and migration of native aquatic animals;
- (c) to maintain the natural variability of flood flows that inundate, and deliver nutrients, organic matter and sediment to, the wetlands of the areas known as the Mitchell River Fan Aggregation and the Southeast Karumba Plain Aggregation.

Chapter 4 Strategies for achieving outcomes

Part 1 Strategies for both surface water and groundwater

Division 1 Preliminary

16 Application of pt 1

This part applies to both surface water and groundwater.

17 Measuring devices

- (1) A measuring device must be used to measure the volume of water taken under a water licence to take water from a watercourse, lake, spring or aquifer, that states an annual volumetric limit.
- (2) Subsection (1) applies—
 - (a) from the day the water licence is declared to be a metered entitlement under the *Water Regulation 2002*, part 7; and
 - (b) in the circumstances mentioned in the *Water Regulation 2002*, part 7.

18 Matters to be considered for environmental management rules

- (1) In deciding the environmental management rules to be included in the resource operations plan, the chief executive must consider—
 - (a) the streamflows required to maintain the following—
 - (i) the longitudinal connectivity of low flow habitats throughout river systems in the plan area;
 - (ii) the wetted habitats at riffles and other streambed features;
 - (iii) the natural seasonality of flows and zero flows;
 - (iv) the replenishment of refuge pools that enable movement of instream biota;
 - (v) groundwater flows;
 - (vi) the contributions from aquifers to the flow of water in watercourses;
 - (vii) the lateral connectivity between rivers in the plan area and their adjacent riverine environments, including floodplains; and
 - (b) the impact the taking of, or proposed taking of, or interfering with, water may have on the following—
 - (i) water quality;

- (ii) the natural movement of sediment;
 - (iii) the bed and banks of a watercourse or lake;
 - (iv) the inundation of habitats;
 - (v) the movement of fish and other aquatic animals;
 - (vi) the recreation and aesthetic values of the plan area;
 - (vii) cultural values including, for example, cultural values of local Aboriginal or Torres Strait Islander communities.
- (2) Subsection (1) does not limit the matters the chief executive may consider.

19 Matters to be considered for water sharing rules

- (1) In deciding the water sharing rules to be included in the resource operations plan for authorisations to take water in a part of the plan area, the chief executive must consider—
- (a) any existing water sharing arrangements; and
 - (b) the local availability of water that may be taken from streamflows, waterholes, bed sands or aquifers; and
 - (c) the conditions for taking water decided under section 43, 50 or 51; and
 - (d) the daily volumetric limits decided under section 48; and
 - (e) the annual volumetric limits decided under section 49 or 63; and
 - (f) the impact on authorisations to take water in the plan area; and
 - (g) for rules relating to surface water in Mary Creek, Bushy Creek or Rifle Creek or in the Mitchell River between nodes 1 and 2—the water that is available for taking during dry seasons.
- (2) Subsection (1) does not limit the matters the chief executive may consider.

Division 2 Unallocated water

Subdivision 1 Continued moratorium and interim arrangements

20 Continued effect of moratorium notice—Act, s 46(3)

- (1) This section continues, in part, the effect of the moratorium notice published on 3 March 1999 and amended on 6 June 2003.
- (2) This section applies to an application under the Act or the repealed Act if granting the application would have 1 or more of the following effects on water to which this plan applies—
 - (a) increase the average volume of water allowed to be taken under authorisations;
 - (b) increase interference with the water;
 - (c) change the location from which the water may be taken;
 - (d) increase the maximum rate for taking the water;
 - (e) change the conditions under which the water may be taken;
 - (f) change the purpose for which the water may be taken.
- (3) Until the resource operations plan is approved—
 - (a) the application will not be accepted; and
 - (b) if the application was received but not decided before the commencement of this plan—the application will not be decided.
- (4) This section does not apply to an application—
 - (a) mentioned in section 21(2); or
 - (b) to which section 36 applies; or
 - (c) for a water permit; or
 - (d) to reinstate or replace an expired water licence; or
 - (e) to subdivide an existing water licence or amalgamate 2 or more existing water licences.

21 Interim arrangements for applications about unallocated water

- (1) This section applies until the resource operations plan states a process for deciding the applications mentioned in subsection (2).
- (2) The chief executive may accept and decide an application about unallocated water to be used for—
 - (a) a State purpose; or
 - (b) stock or domestic purposes.
- (3) The water for a water licence granted for an application under subsection (2) may be granted only from strategic unallocated water.
- (4) For section 30, the water must be included in working out the total of the annual volumetric limits for water licences to take strategic unallocated water.

Subdivision 2 Project of regional significance**22 Projects that may be considered to be of regional significance**

The chief executive may consider a particular project to be a project of regional significance for the plan area only if the chief executive considers the project is significant for a region in the plan area, having regard to the following—

- (a) the outcomes under chapter 3;
- (b) the economic or social impact the project will have on the region;
- (c) the public interest and the welfare of people in the region;
- (d) any other relevant matter.

Subdivision 3 Dealing with unallocated water under resource operations plan generally

23 Unallocated water held as indigenous, strategic or general reserve

- (1) Unallocated water in the Mitchell River upstream of node 1 is held as a general reserve.
- (2) Unallocated water in another part of the plan area is held as—
 - (a) if the unallocated water is in the Cape York Peninsula Region area—either an indigenous reserve, a strategic reserve or a general reserve; or
 - (b) otherwise—either a strategic reserve or a general reserve.

24 Granting unallocated water

Unallocated water held as an indigenous, strategic or general reserve may be granted only under a water licence granted under a process stated in the resource operations plan.

25 Preparing and implementing process in resource operations plan generally

- (1) Unallocated water may be dealt with only under a process in the resource operations plan.
- (2) In preparing and implementing the process, the chief executive must consider the following—
 - (a) the purpose for which the water is required;
 - (b) the efficiency of existing and proposed water use practices;
 - (c) the extent to which water in the plan area is being taken under authorisations;
 - (d) the availability of an alternative water supply for the purpose for which the water is required;

- (e) the impact the proposed taking of, or interfering with, the water may have on existing water users in the plan area;
 - (f) whether the proposed taking or interfering is likely to have a direct adverse effect on groundwater flows;
 - (g) the matters mentioned in section 18(1)(a) and (b).
- (3) The resource operations plan must state that use, for irrigation, of water taken under a water licence granted under the process requires a land and water management plan approved under section 77 of the Act.
- (4) Subsection (1) does not limit the matters the chief executive may consider.

26 Additional requirements for dealing with unallocated water that is groundwater

The process in the resource operations plan for dealing with unallocated water must provide that the chief executive may require a person interested in obtaining a water licence to take groundwater from the Chillagoe groundwater management area to—

- (a) investigate the likely impact the proposed taking of water may have on groundwater or surface water flows; and
- (b) give the results of the investigation to the chief executive.

Subdivision 4 Limitations on granting unallocated water from indigenous reserve

27 Purpose for which indigenous unallocated water may be granted

Unallocated water held as an indigenous reserve (*indigenous unallocated water*) may be granted only for helping indigenous communities in the Cape York Peninsula Region area to achieve their economic and social aspirations.

28 Volumetric limits for indigenous unallocated water

The total of the annual volumetric limits for all water licences to take indigenous unallocated water from the Cape York Peninsula Region area is 5000ML.

Subdivision 5 Limitations on granting unallocated water from strategic reserve**29 Purpose for which strategic unallocated water may be granted**

Unallocated water held as a strategic reserve (*strategic unallocated water*) may be granted only if it is to be taken for a State purpose.

30 Volumetric limits for strategic unallocated water

The total of the annual volumetric limits for all water licences to take strategic unallocated water is 10000ML.

31 Period for which strategic unallocated water is granted for particular State purpose

- (1) This section applies to water licences to take strategic unallocated water granted for either of the following State purposes—
 - (a) a project of State significance;
 - (b) a project of regional significance.
- (2) Water granted for a project is granted only for the life of the project and the right to take the water returns to the State on the conclusion of the project.

Subdivision 6 Limitations on granting unallocated water from general reserve

32 Purpose for which general unallocated water may be granted

Unallocated water held as a general reserve (*general unallocated water*) may be granted for any purpose.

33 Volumetric limits for general unallocated water in Mitchell River upstream of node 1

The total of the annual volumetric limits for all water licences to take general unallocated water from the Mitchell River upstream of node 1 is 20000ML.

34 Volumetric limits for general unallocated water in other parts of plan area

The total of the annual volumetric limits for all water licences to take general unallocated water from a part of the plan area other than the Mitchell River upstream of node 1 is 35000ML.

Part 2 Additional strategies for surface water

Division 1 Preliminary

35 Application of pt 2

The strategies stated in this part apply to surface water in addition to the strategies stated in part 1.

36 Accepting and deciding particular applications to interfere with water

- (1) This section applies to the chief executive in making a decision about an application to interfere with, or increase the interference with, surface water in a watercourse, waterhole, lake or spring by impounding the flow of the water.
- (2) The chief executive may accept and decide the application only if the purpose of the proposed interference or increase in interference is—
 - (a) to store water for stock or domestic purposes; or
 - (b) to provide a pumping pool to enable water to be taken under an authorisation in existence at the commencement of this plan; or
 - (c) to store water for a purpose not related to the taking of water under a water entitlement.

Examples of a purpose for subsection (2)(c)—

community landscaping or retaining water for flood mitigation purposes

- (3) The chief executive may approve the application if—
 - (a) the chief executive is satisfied the proposed interference or increase in interference is necessary for a purpose mentioned in subsection (2); and
 - (b) the proposed storage capacity is no greater than is necessary for the purpose of the proposed interference or increase in interference having regard to—
 - (i) the impact the proposed interference or increase in interference may have on the following—
 - (A) instream water levels;
 - (B) the natural movement of sediment;
 - (C) the bed and banks of a watercourse or lake;
 - (D) riparian vegetation;
 - (E) habitat for native plants and animals;
 - (F) movement of fish and other aquatic species;

-
- (G) cultural and ecological values of the watercourse, waterhole, lake or spring; and
 - (ii) for a purpose mentioned in subsection (2)(a)—
 - (A) existing water supplies for the property to which the application relates, including existing weirs, groundwater and dams taking overland flow water; and
 - (B) the availability of water at the proposed storage site.
 - (4) However, the chief executive must not approve an application for a proposed interference or increase in interference for a purpose mentioned in subsection (2)(b) or (c) if the proposed storage capacity is greater than—
 - (a) for a purpose mentioned in subsection (2)(b)—10ML; or
 - (b) for a purpose mentioned in subsection (2)(c)—250ML.
 - (5) This section does not apply to an application about unallocated water.
 - (6) In this section—

pumping pool means a pool of water near a pump in a watercourse, lake or spring that ensures the water level of the watercourse, lake or spring is appropriate to enable the pump to function properly.

37 Restrictions on taking water from waterhole or lake

- (1) This section applies to the chief executive in making a decision about a water licence to take surface water from a waterhole or lake.
- (2) The chief executive must—
 - (a) consider the impact the taking may have on the cultural or ecological values of the waterhole or lake; and
 - (b) impose a condition on the licence about maintaining the cultural or ecological values of the waterhole or lake.

Example for paragraph (b)—

a condition that the water may be taken only if the water level in the waterhole or lake is above the level that is 0.5m below the level at which it naturally overflows

- (3) However, the chief executive need not impose a condition mentioned in subsection (2)(b) if the chief executive is satisfied—
- (a) the taking of water from the waterhole or lake will not adversely affect its cultural or ecological values; or
 - (b) for an existing water licence—the holder of the licence would suffer economic hardship if the condition were imposed.

Division 2 Surface water that was groundwater in aquifers

38 Application of div 2

This division applies to groundwater declared to be water in a watercourse under section 7 (*declared water*).

39 Existing water licences for declared water

- (1) This section applies to an existing water licence to take declared water.
- (2) At the commencement of this plan, the licence is taken to be a water licence to take surface water.
- (3) The chief executive must amend the licence to ensure it is consistent with the requirements, under division 4, applying to water licences to take surface water.

40 Taking declared water using existing water bores authorised

- (1) This section applies to an owner of an existing water bore that takes declared water if the owner did not, before the commencement of this plan, require a water licence to take the water.

- (2) The owner may continue to use the bore to take the declared water for 1 year after the commencement of this plan.
- (3) Also, if the owner gives the chief executive notice, in the approved form, of the water bore and the taking of water using the bore, the owner may continue to use the bore to take the declared water—
 - (a) after the notice is given; and
 - (b) until the owner is granted a water licence under section 41.
- (4) Subsections (2) and (3) do not authorise the owner to take more than the relevant annual volumetric limit of declared water for the owner.
- (5) In this section—

relevant annual volumetric limit, of declared water for an owner of an existing water bore that takes declared water, means the annual volume of declared water the owner was taking before 17 October 2003.

41 Granting water licences for authorities under s 40

- (1) The chief executive must, under section 212 of the Act, grant a water licence to take surface water to a person authorised under section 40(3) to continue to take declared water.
- (2) The licence must be consistent with division 4.
- (3) However, despite section 49, the annual volumetric limit for the licence must be the relevant annual volumetric limit of declared water for the owner under section 40.

Division 3 Replacing authority with water licence

42 Water licences to replace local government authority

- (1) This section applies to the authority mentioned in schedule 5, column 1, continued under section 1037 of the Act.

- (2) Within 30 business days after the commencement of this plan, the chief executive must replace the authority with—
 - (a) the water licence to take water described for the authority in schedule 5, column 2; and
 - (b) the water licence to interfere with water described for the authority in schedule 5, column 3.

43 Conditions for water licences granted under s 42

- (1) This section applies if environmental management rules or water sharing rules are included in the resource operations plan.
- (2) The chief executive must amend a water licence granted under section 42 to impose conditions giving effect to the rules.

Division 4 Water licences to take or interfere with surface water

44 Application of div 4

This division applies to a water licence to take, or interfere with, surface water in a watercourse, lake or spring other than a water licence granted under section 42.

45 Water licence to take surface water

A water licence to take surface water must state the following—

- (a) the purpose for which water may be taken under the licence;
- (b) the maximum rate at which water may be taken under the licence;
- (c) the daily volumetric limit for the licence;
- (d) the annual volumetric limit for the licence;
- (e) if a condition, including, for example, a flow condition or a condition about storing water taken under the licence, applies to the licence—the condition.

46 Purpose to be stated on water licence

The purpose stated on a water licence to take surface water must be—

- (a) if the intended use for the water is, or the licence is an existing water licence and the purpose stated on the licence is, stock, domestic, irrigation, stock intensive, agriculture or a similar purpose—‘rural’; or
- (b) otherwise—‘any’.

47 Maximum rates for taking surface water

(1) The maximum rate at which surface water may be taken under a water licence is—

- (a) for a licence that states a maximum rate—the stated rate; and
- (b) for a licence, other than a licence mentioned in section 39 or granted under section 41, that does not state a maximum rate but for which a related development permit for the licence—
 - (i) states a pump size mentioned in schedule 6, column 1—the rate stated for the pump size in schedule 6, column 2; or
 - (ii) states a pump size other than a pump size mentioned in schedule 6, column 1—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 6, column 2; and
- (c) for a licence other than a licence to which paragraph (a) or (b) applies—the rate decided by the chief executive having regard to—
 - (i) the nature of the licence; and
 - (ii) an estimate or measurement of the rate at which water can be taken under the licence.

(2) However, for subsection (1)(b), if the licence holder satisfies the chief executive that the maximum rate at which water can be taken is different from the rate decided under the subsection, the maximum rate at which surface water may be

taken under the licence is the rate decided by the chief executive having regard to the following—

- (a) the conditions under which the water may be taken;
- (b) the water taking capacity of the pump to which the development permit relates (the *existing pump*);
- (c) the irrigation or water distribution system related to the existing pump during the period of not more than 10 years immediately before the commencement of this plan;
- (d) the efficiency of the water use mentioned in paragraph (c).

48 Daily volumetric limit for taking surface water

- (1) The daily volumetric limit for a water licence to take surface water is—
 - (a) for a licence that states a daily volumetric limit—the stated volume; and
 - (b) for a licence, other than a licence mentioned in section 39 or granted under section 41, that does not state a daily volumetric limit but for which a related development permit for the licence—
 - (i) states a pump size mentioned in schedule 6, column 1—the rate stated for the pump size in schedule 6, column 3; or
 - (ii) states a pump size other than a pump size mentioned in schedule 6, column 1—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 6, column 3; and
 - (c) for a licence other than a licence to which paragraph (a) or (b) applies—the daily volumetric limit decided by the chief executive having regard to—
 - (i) the nature of the licence; and
 - (ii) an estimate or measurement of the rate at which water can be taken under the licence.

- (2) However, for subsection (1)(b), if the licence holder satisfies the chief executive that the water taking capacity of the pump is different from the daily volumetric limit decided under the subsection, the daily volumetric limit for the licence is the daily volumetric limit decided by the chief executive having regard to the following—
- (a) the conditions under which the water may be taken;
 - (b) the water taking capacity of the pump to which the development permit relates (the *existing pump*) under normal operating conditions;
 - (c) the irrigation or water distribution system related to the existing pump during the period of not more than 10 years immediately before the commencement of this plan;
 - (d) the efficiency of the water use mentioned in paragraph (c).
- (3) The chief executive must ensure the daily volumetric limit for a water licence to take surface water is not more than the total volume that could be taken in a day at the maximum rate decided, for the licence, under section 47.

49 Annual volumetric limit for taking surface water

The annual volumetric limit for a water licence to take surface water is—

- (a) for a licence that states the volume of water that may be taken in a period of 12 months—the stated volume; and
- (b) for a licence that states the area that may be irrigated under the licence—the volume decided by the chief executive having regard to the volume of water required for the licence's intended purpose but not more than the volume, expressed in megalitres, calculated by multiplying the area, in hectares, by—
 - (i) for an upper Mitchell water licence—10; or
 - (ii) for another licence—12; and

- (c) for a licence other than a licence to which paragraph (a) or (b) applies—the volume decided by the chief executive having regard to the following—
 - (i) the conditions under which water may be taken under the licence;
 - (ii) the water taking capacity of any works for taking water under the licence;
 - (iii) the volume of water required for the licence's intended purpose;
 - (iv) the annual volumes of water estimated by the chief executive to have been taken under the licence during the period, of not more than 10 years, immediately before the commencement of this plan;
 - (v) the efficiency of the use of the water mentioned in subparagraph (iv).

50 Conditions for taking surface water generally

- (1) The chief executive may impose on a water licence to take surface water any condition the chief executive is satisfied is necessary to ensure the purposes and outcomes of this plan are achieved.
- (2) In deciding the flow conditions under which water may be taken under an existing water licence to take surface water, the chief executive must have regard to the conditions already applying to the licence.

51 Condition that must be imposed on upper Mitchell water licences

- (1) This section applies if an upper Mitchell water licence states the area that may be irrigated under the licence.
- (2) The chief executive must impose a condition on the licence to ensure the licence does not allow more than the prescribed volume of surface water to be taken during the period between 1 July and 31 December in a year.
- (3) In this section—

prescribed volume, for an upper Mitchell water licence, means 6.6ML for each hectare that may be irrigated under the licence.

52 Condition about storing unsupplemented water taken under a water licence

- (1) Without limiting section 50(1), the chief executive may impose, on a water licence to take unsupplemented water, a condition that states the works that may be used to store the water taken under the licence.
- (2) In deciding whether to impose the condition mentioned in subsection (1), the chief executive must have regard to the capacity of any existing overland flow works being used to store the water.

53 Conditions giving effect to rules

- (1) Subsection (2) applies to any environmental management rules or water sharing rules included in the resource operations plan.
- (2) The chief executive must—
 - (a) amend water licences in existence at the commencement of the resource operations plan to impose conditions giving effect to the rules; and
 - (b) impose conditions giving effect to the rules on water licences granted after the commencement.

Division 5 Regulation of overland flow water

54 Limitation on taking overland flow water—Act, s 20(6)

- (1) A person may not take overland flow water other than—
 - (a) for stock or domestic purposes; or
 - (b) for any purpose using works that allow the taking of overland flow water and have a capacity of not more than 250ML; or

- (c) under a water licence; or
- (d) overland flow water of not more than the amount necessary to satisfy the requirements of—
 - (i) an environmental authority issued under the *Environmental Protection Act 1994*; or
 - (ii) a development permit for carrying out an environmentally relevant activity, other than a mining or petroleum activity, under the *Environmental Protection Act 1994*; or
- (e) overland flow water that is contaminated agricultural run-off water; or
- (f) under an authority under section 55.

- (2) In this section—

contaminated agricultural run-off water has the meaning given by the ‘Code for Assessable Development for Operational Works for Taking Overland Flow Water’.

Editor’s note—

A copy of the code is available on the department’s website.

55 Taking water using particular existing overland flow works authorised

- (1) This section applies to the owner of land on which existing overland flow works are situated, other than works for taking only the overland flow water that may be taken under section 54(1)(a) to (e).
- (2) The owner may continue to use the existing overland flow works to take overland flow water for 1 year after the commencement of this plan.
- (3) Also, if the owner gives the chief executive notice of the existing overland flow works, in the approved form, and any further information reasonably required by the chief executive about the works, the owner may continue to use the works to take overland flow—
 - (a) after the notice and information are given; and
 - (b) until the owner is granted a water licence under the Act.

- (4) In this section—
- existing overland flow works* includes works that—
- (a) are a reconfiguration of existing overland flow works (the *original works*); and
 - (b) do not increase the average annual volume of water taken above the average annual volume taken using the original works.

56 Granting or amending water licences under the resource operations plan

- (1) This section applies if the resource operations plan states a process for—
- (a) granting, under section 212 of the Act, a water licence to replace an authority under section 55(3) for existing overland flow works; or
 - (b) amending a water licence mentioned in paragraph (a).
- (2) In following the process and granting or amending a water licence, the chief executive—
- (a) must consider—
 - (i) the average annual volume of overland flow water that could have been taken, immediately before the commencement of this plan, using the existing overland flow works to which the authority relates; and
 - (ii) the annual volumes of overland flow water estimated by the chief executive to have been taken by the works during the period, of not more than 10 years, immediately before the commencement; and
 - (b) may consider the extent to which the works, immediately before the commencement, allowed—
 - (i) the taking of other water under another authorisation; or
 - (ii) the storage of other water taken under another authorisation.

- (3) Subsection (2) does not limit the matters the chief executive may consider.
- (4) The process must provide that the chief executive may require the authority or licence holder to give the chief executive a certificate, from a registered professional engineer, stating information about the works, including the capacity of the works and the rate at which the works may take water.

57 Relationship with Integrated Planning Act 1997

- (1) Works that allow the taking of overland flow water are assessable development for the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(i).
- (2) Subsection (1) does not apply to—
 - (a) works mentioned in subsection (3); or
 - (b) the repair or maintenance of either of the following works if the repair or maintenance does not alter the design of the works—
 - (i) works to which section 55 applies;
 - (ii) works constructed under a development permit.
- (3) The following works that allow the taking of overland flow water are self-assessable development for the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(b)(i)—
 - (a) works for taking overland flow water only for stock or domestic purposes;
 - (b) works mentioned in section 54(1)(b);
 - (c) works for taking only the overland flow water mentioned in section 54(1)(d).

Part 3 Additional strategies for groundwater

Division 1 Preliminary

58 Application of pt 3

The strategies stated in this part apply to groundwater in addition to the strategies stated in part 1.

59 Relationship with Integrated Planning Act 1997

- (1) In the Great Artesian Basin groundwater management area, all works for taking groundwater are assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(ii).
- (2) In another part of the plan area—
 - (a) works for taking groundwater for other than stock or domestic purposes are assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, item 3(c)(ii); and
 - (b) works for taking groundwater for stock or domestic purposes are self-assessable development under the *Integrated Planning Act 1997*, schedule 8, part 2, table 4, item 1(b)(ii).

Division 2 Strategies for Chillagoe groundwater management area

60 Limitation on taking or interfering with water—Act, s 20(6)

In the Chillagoe groundwater management area, a person may not take or interfere with groundwater other than—

- (a) for stock or domestic purposes; or

- (b) for monitoring the quality of the water or controlling the salinity of the water; or
- (c) under a water licence or water permit.

61 Water licence to take groundwater

- (1) A water licence to take groundwater in the Chillagoe groundwater management area must state—
 - (a) the purpose for which the water may be taken under the licence; and
 - (b) the annual volumetric limit for the licence.
- (2) Despite subsection (1)(b), a water licence to take groundwater for dewatering may, but need not, state an annual volumetric limit.

62 Purpose to be stated on water licence

The purpose stated on a water licence to take groundwater in the Chillagoe groundwater management area must be—

- (a) if the intended use for the water is, or the licence is an existing water licence and the purpose stated on the licence is, stock, domestic, irrigation, stock intensive, agriculture or a similar purpose—‘rural’; or
- (b) if the intended use for the water is, or the licence is an existing water licence and the purpose stated on the licence is, dewatering or a similar purpose—‘dewatering’; or
- (c) otherwise—‘any’.

63 Amendment of water licences to state annual volumetric limit

- (1) This section applies to an existing water licence to take groundwater in the Chillagoe groundwater management area that does not state the maximum annual volume of water that may be taken under the licence.
- (2) The chief executive may, under section 217 of the Act, amend the licence to state an annual volumetric limit.

- (3) In deciding the annual volumetric limit, the chief executive must have regard to the following—
- (a) the conditions of the licence;
 - (b) the efficiency of the current use of water having regard to industry best practice in efficient water use;
 - (c) the impact the taking is having on—
 - (i) the flow of water to watercourses or springs; and
 - (ii) groundwater levels;
 - (d) the annual volume of water estimated by the chief executive to have been taken under the licence immediately before 17 October 2003;
 - (e) the impact the taking is having on existing water entitlements and other authorities to take or interfere with water;
 - (f) the availability of an alternative water supply for the purpose for which the water is being taken;
 - (g) the total annual volumetric limits for water licences in the area;
 - (h) if the holder of the licence has undertaken a pumping test for the existing bore or bores to which the licence relates—the results of the test.

64 Conditions for taking groundwater

- (1) This section applies to a water licence to take groundwater in the Chillagoe groundwater management area granted after the commencement of this plan.
- (2) The chief executive may impose conditions on the licence requiring the holder of the licence—
 - (a) to provide and maintain access to alternative water supplies for other persons, authorised under the Act to take water, who would be significantly adversely affected by the granting of the licence; and
 - (b) to carry out and report on a stated activity for monitoring the impact of taking groundwater under the licence.

65 Taking water using existing water bores authorised

- (1) The owner of an existing water bore in the Chillagoe groundwater management area may continue to use the bore to take groundwater for 1 year after the commencement of this plan.
- (2) Also, if the owner gives the chief executive notice, in the approved form, of the water bore and the taking of water using the bore, the owner may continue to use the bore to take groundwater—
 - (a) after the notice is given; and
 - (b) until the owner is granted a water licence under section 66.
- (3) Subsections (1) and (2) do not authorise the owner to take more than the relevant annual volumetric limit of groundwater for the owner.
- (4) In this section—

relevant annual volumetric limit, of groundwater for an owner of an existing water bore in the Chillagoe groundwater management area, means the annual volume of groundwater the owner was taking in the Chillagoe groundwater management area before 17 October 2003.

66 Granting water licences for authorities under s 65

- (1) The chief executive must, under section 212 of the Act, grant a water licence to a person authorised under section 65(2) to continue taking groundwater.
- (2) The licence must be consistent with this division.

Chapter 5 Monitoring and reporting requirements

67 Monitoring

- (1) The monitoring requirements for this plan are—

- (a) water monitoring for—
 - (i) stream flows; and
 - (ii) groundwater levels; and
 - (iii) taking and diverting water; and
 - (iv) releases from water storages; and
 - (v) water quantity for water storages, including inflow, storage volume or level and outflow; and
 - (b) natural ecosystems monitoring for—
 - (i) volume, frequency, duration and timing of stream flows; and
 - (ii) information on hydraulic habitat requirements of ecological assets in the plan area; and
 - (c) other water and natural ecosystem monitoring required by the chief executive.
- (2) The monitoring requirements are to be achieved by—
- (a) monitoring programs undertaken by operators of infrastructure for interfering with water under the resource operations plan; and
 - (b) monitoring programs administered by the chief executive and relevant State agencies; and
 - (c) other monitoring programs considered by the chief executive to be relevant to the matters mentioned in subsection (1).
- (3) In this section—

annual variability, for a flow at a point in a watercourse, means the amount of change in the flow that happens between years.

discharge, for a flow at a point in a watercourse, means the rate at which water passes the point, measured in cubic metres a second or megalitres a day.

ecological assets include a species, a group of species, a biological function, an ecosystems and a place of natural value.

flow regime means the entire range of flows at a point in a watercourse including variations in the watercourse height, discharge, seasonality, annual variability and event duration.

hydraulic habitat requirements, of an ecological asset, are the hydraulic or physical attributes of the flow regime or groundwater that are—

- (a) required for a particular biological process or response to happen in relation to the asset; or
- (b) necessary to maintain the long-term biological integrity of the asset.

68 Monitoring programs undertaken by operators of infrastructure

- (1) Each operator of infrastructure for interfering with water in the plan area must develop and undertake the monitoring programs stated, for the operator, in the resource operations plan.
- (2) The monitoring programs must assist in enabling the chief executive to assess the effectiveness of the strategies under chapter 4.

69 Operators of infrastructure to give reports

- (1) Each operator of infrastructure for interfering with water in the plan area must, to the extent required under the resource operations plan, give the chief executive a written report containing the following information—
 - (a) details of the information obtained by the monitoring mentioned in section 68;
 - (b) details of decisions made by the operator in managing water and water infrastructure, or distributing water, including, for example, decisions about the following—
 - (i) making water available to water users under the operator's usual procedures for managing or distributing water;
 - (ii) managing the flow of water;
 - (iii) restrictions on the taking or supply of water;

- (iv) infrastructure modifications or installations;
 - (c) information about any non-compliance by the operator with the resource operations plan;
 - (d) details about remedial action taken by the operator—
 - (i) in relation to a requirement under the resource operations plan; or
 - (ii) in response to an event or thing affecting water quality;
 - (e) details of any emergency action taken by the operator that may affect the achievement of the outcomes under chapter 3.
- (2) A report about a matter mentioned in subsection (1) must be given—
- (a) for each financial year in which the operator manages or distributes water under this plan; and
 - (b) within 3 months after the end of the financial year to which the report relates.
- (3) A report about a matter mentioned in subsection (1)(e) must also be given the next business day after the action is taken.
- (4) Despite subsection (2), the resource operations plan may require reports about matters mentioned in subsection (1) to be given more frequently than for each financial year.

70 Minister's report on plan—Act, s 53

- (1) The Minister's report on this plan must be prepared—
- (a) for the first report—for the financial year in which the resource operations plan commences; and
 - (b) for subsequent reports—for each subsequent financial year this plan is in force; and
 - (c) for each report—within 6 months after the end of the financial year to which the report relates.
- (2) If the Minister is satisfied about any of the matters mentioned in section 73, the report, in its assessment of the effectiveness

of the implementation of the plan in achieving plan's outcomes, must include a consideration of the matters.

Chapter 6 Implementing and amending this plan

71 Implementation schedule

- (1) This section states the proposed arrangements for implementing this plan.
- (2) Within 1 year after the commencement of this plan, it is proposed to prepare a resource operations plan—
 - (a) to amend existing water licences to be consistent with this plan; and
 - (b) to make environmental management rules, water sharing rules and seasonal water assignment rules; and
 - (c) to establish a process to deal with unallocated water available for future water requirements in the plan area; and
 - (d) to establish a process for granting or amending water licences to take overland flow water; and
 - (e) to implement the monitoring requirements mentioned in chapter 5.

72 Minor or stated amendment of plan—Act, s 57

The following types of amendment may be made to this plan under section 57(b) of the Act—

- (a) an amendment or addition of a node;
- (b) an amendment to subdivide a subcatchment area;
- (c) an amendment of section 20 if notice of the amendment is published as if it were a moratorium notice under section 26 of the Act.

- (d) an amendment of the capacity mentioned in section 54(1)(b);
- (e) an amendment or addition of a monitoring or reporting requirement under chapter 5.

73 Amending or replacing plan

The Minister must consider amending this plan or preparing a new plan to replace this plan if the Minister is satisfied—

- (a) in relation to this plan's general outcomes under section 12—
 - (i) water entitlements in the plan area are not sufficient to meet water needs sourced from the plan area having regard to—
 - (A) the extent to which water is being taken under the water entitlements; and
 - (B) the efficiency of present, and expected future, water use; and
 - (C) emerging requirements for additional water; and
 - (D) water savings that may be made from improvements in the efficiency of water use or the use of water from other sources including, for example, recycled water; and
 - (E) the likely timeframe in which additional water will be required; and
 - (ii) there are economically viable and ecologically sustainable uses for additional water; or
- (b) this plan's general ecological outcomes under section 13 or 14, or specific ecological outcomes under section 15, are not being achieved.

Schedule 1 Plan area

sections 4 and 9

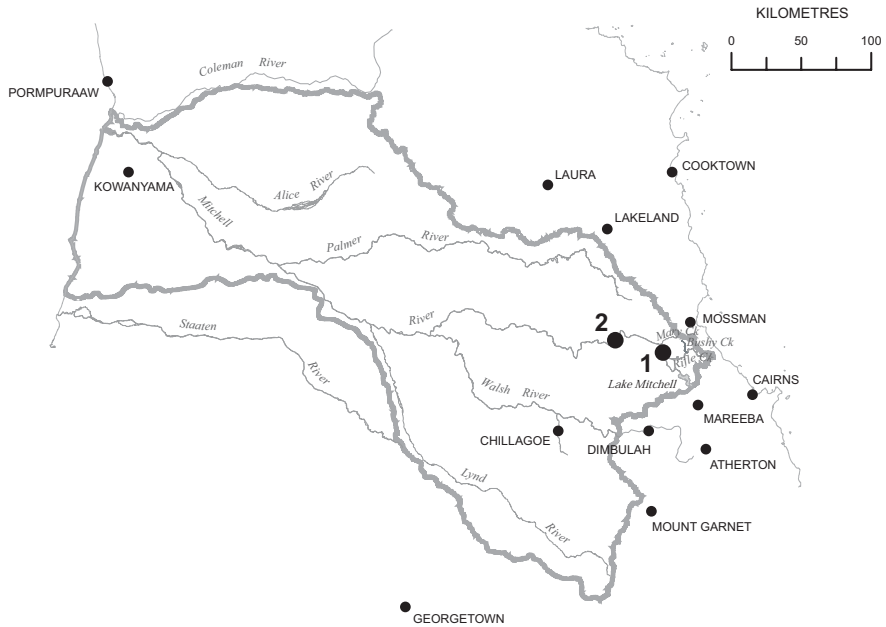


LEGEND

- Plan Area Boundary
- Node

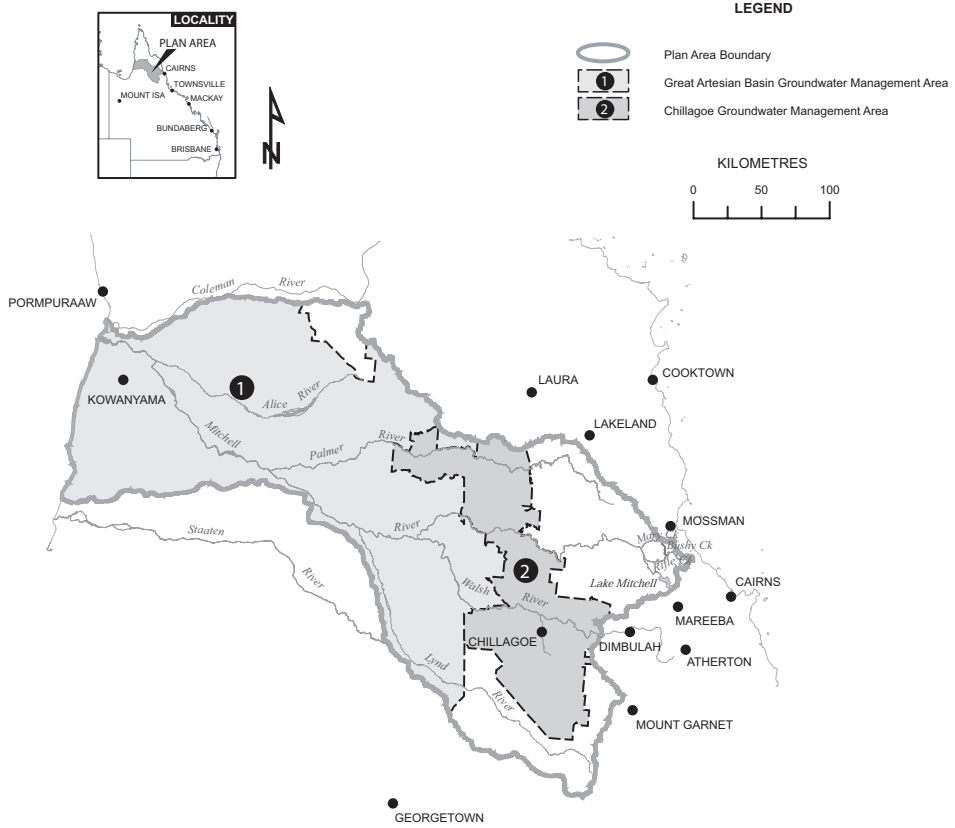
NODES:

1. Mitchell River at the confluence with Rifle Creek (AMTD 554.5km)
2. Mitchell River at Cooktown Crossing (AMTD 506.5km)



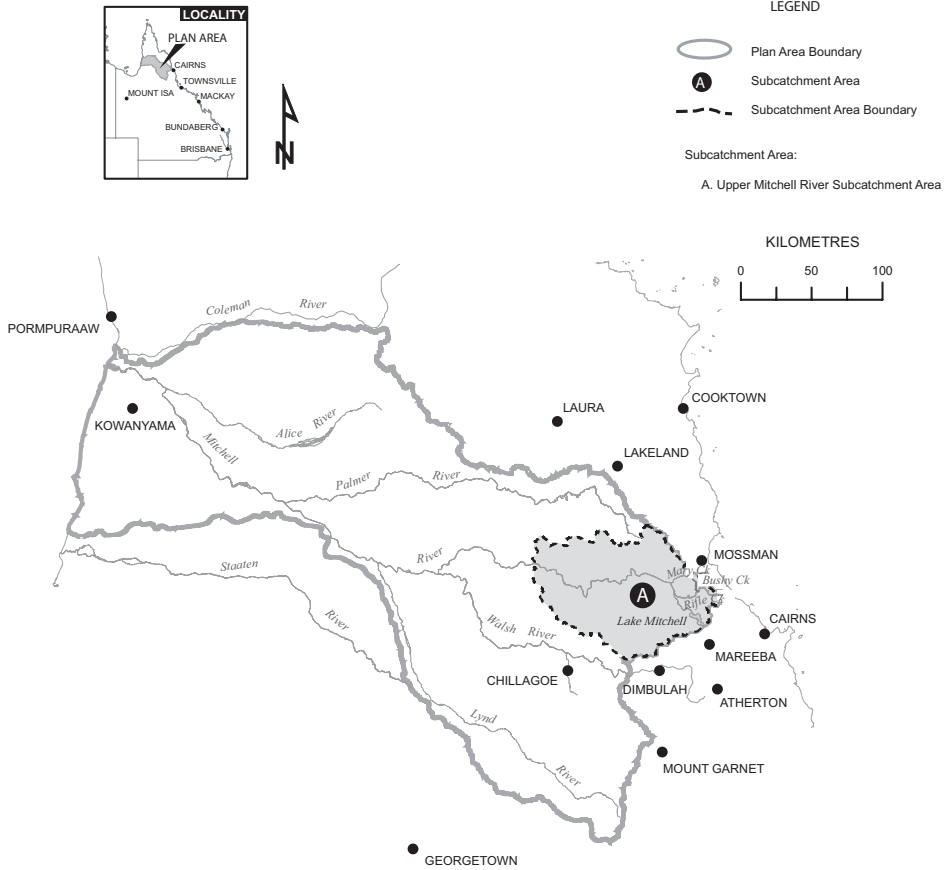
Schedule 2 Groundwater management areas

section 5



Schedule 3 Subcatchment area

section 6



Schedule 4 Nodes

section 9

Column 1	Column 2
Node	Location
1	Mitchell River at its confluence with Rifle Creek (at AMTD 554.5km)
2	Mitchell River at Cooktown Crossing (at AMTD 506.5km)

Schedule 5 Water licences to replace local government authority

section 42

Column 1	Column 2	Column 3
Continued authority	Water licence to take water	Water licence to interfere with water
The authority granted in the Order in Council published in the gazette on 3 October 1987, at page 388, authorising the Council of the Shire of Mareeba to take and interfere with water from Chillagoe Creek	licensee —Mareeba Shire Council period —10 years location —Chillagoe Creek and adjoining land on lot 4 on SP104550 purpose —any maximum rate —10.2 litres a second daily volumetric limit —0.6ML annual volumetric limit —130ML water year —1 July to 30 June	licensee —Mareeba Shire Council period —10 years location —lot 4 on SP104550 purpose —any

Schedule 6 Rates, volumetric limits and pump sizes

sections 47 and 48

Column 1	Column 2	Column 3
Pump size (mm)	Maximum rate for other parts of plan area (litres/second)	Daily volumetric limit for other parts of plan area (ML)
32	8	0.6
40	16	1
50	25	1.5
65	46	3.5
80	65	3.9
100	95	6.9
125	120	7.8
150	150	12.1
200	220	15.6
250	300	21.6
300	350	25.9
350	400	30.2
375 to 400	500	37.2
500	660	47.5
600 to 610	1200	86.4
650 to 660	1700	120
700 to 720	2100	150
750 to 770	2500	180
780 to 810	2800	200

Schedule 7 Dictionary

section 3

adopted middle thread distance means the distance in kilometres, measured along the middle of a watercourse, that a specific point in the watercourse is, at the commencement of this plan, from—

- (a) the watercourse's mouth; or
- (b) if the watercourse is not a main watercourse—the watercourse's confluence with its main watercourse.

AMTD means adopted middle thread distance.

annual volumetric limit, for a water licence, means the maximum volume of water that may be taken under the licence in the water year for the licence.

authorisation means a licence, permit, interim water allocation or other authority to take water given under the Act or the repealed Act, other than a permit for stock or domestic purposes.

average volume of water allowed to be taken under authorisations means the total volume of water simulated to have been taken under the authorisations during the simulation period if the authorisations were in existence for the whole of the simulation period, divided by the number of years in the simulation period.

bed sand means the sediment below the bed of a watercourse through which water percolates.

Cape York Peninsula Region area means the part of the plan area that is within the Cape York Peninsula Region as defined under the *Cape York Peninsula Heritage Act 2007*.

daily volumetric limit, for a water licence, means the maximum volume of water that may be taken under the licence in a day.

declared water see section 38.

dewatering means lowering water levels to prevent water entering a mine.

existing overland flow works means works that allow the taking of overland flow water and either—

- (a) were in existence on 6 June 2003; or
- (b) were started, but not completed by 6 June 2003 and—
 - (i) if a variation to a moratorium notice was granted for the works under section 27 of the Act—have been, or are being, completed in accordance with the moratorium notice, as varied; or
 - (ii) if subparagraph (i) does not apply—were completed by 17 October 2003; or
- (c) for works to which the moratorium notice mentioned in section 20(1) did not apply, were started before the commencement of this plan.

existing water bore means a water bore that—

- (a) is able to take groundwater; and
- (b) was in existence on 17 October 2003.

existing water licence means a water licence in force at the commencement of this plan.

general unallocated water see section 32.

groundwater see section 10(2).

groundwater management area see section 5.

indigenous unallocated water see section 27.

Lake Mitchell means the part of the Mitchell River that is impounded by Southedge Dam at AMTD 580km.

node see section 9.

operator of infrastructure for interfering with water means—

- (a) the holder of a resource operations licence or a distributions operations licence; or
- (b) an operator of infrastructure for interfering with water, mentioned in the resource operations plan.

Schedule 7 (continued)

plan area means the area shown as the plan area on the map in schedule 1.

project of regional significance means a project the chief executive considers, under section 22, to be a project of regional significance for the plan area.

project of State significance means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

related development permit, for a water licence, means the development permit for the works for taking water under the licence.

resource operations plan means the resource operations plan to implement this plan.

started, for existing overland flow works, means—

- (a) construction of the works had physically begun or, if construction had not physically begun, a contract had been entered into to begin construction; and
- (b) an independently verifiable construction program existed for progressive construction towards completion of the works; and
- (c) detailed design plans existed showing, among other things, the extent of the works; and
- (d) if a permit under the *Local Government Act 1993*, section 940 was required for the works—the permit had been issued; and
- (e) if a development permit was required for the works—the permit had been given.

State purpose means—

- (a) a project of State significance; or
- (b) a project of regional significance; or
- (c) town water supply; or
- (d) ecotourism in a wild river area.

strategic unallocated water see section 29.

Schedule 7 (continued)

subcatchment area see section 6.

surface water see section 10(1).

this plan means this water resource plan.

upper Mitchell water licence means a water licence to take water from the Upper Mitchell River subcatchment area.

waterhole means a part of a watercourse that contains water after the watercourse ceases to flow, other than a part of a watercourse that is within the storage area of a dam on the watercourse.

works that allow the taking of overland flow water include—

- (a) storages, sumps, drains, embankments, channels and pumps for taking, or that can be used for taking, overland flow water; and
- (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).

ENDNOTES

- 1 Approved by the Governor in Council on 1 November 2007.
- 2 Notified in the gazette on 2 November 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Natural Resources and Water.