



Queensland

Water Resource (Mitchell) Plan 2007

Explanatory Notes for SL 2007 No. 269

made under the

Water Act 2000

General outline

The *Legislative Standards Act 1992* (s 22(2)) requires that significant subordinate legislation is accompanied by explanatory notes that are prepared under the authority of the responsible Minister. The explanatory notes form a “plain English” version of the *Water Resource (Mitchell) Plan 2007* (‘the plan’).

The purpose of the explanatory notes is to assist the reader in interpreting the plan, particularly through outlining the intent of the plan clauses. Hence the plan should be read in conjunction with these notes. However, the reader should refer to the plan itself for detail of the provisions, including management outcomes, objectives and strategies for the different types of water. The explanatory notes are organised by clause, with the numbering corresponding to the numbering of the plan.

Title

Water Resource (Mitchell) Plan 2007

Authorising law

Chapter 2, Part 3, Division 2 of the *Water Act 2000*.

Policy objectives of the legislation

A purpose of the *Water Act 2000* ('the Act') is to advance the sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water (s 10). The policy objectives of the plan operate within this overarching purpose and provide a framework for advancing the sustainable management of water (s 38) for consumptive, natural ecosystem and other non-consumptive water uses.

The plan provides for the allocation and sustainable management of surface (including overland flow) water and groundwater water by—

- defining the availability of water in the plan area;
- providing a framework for sustainably managing water and the taking of water;
- identifying priorities and mechanisms to deal with future demand for water;
- providing a framework for establishing water allocations;
- managing and licensing the take of groundwater water and overland flow water;
- outlining the strategies to achieve the plan outcomes; and
- providing a framework for reversing, where practicable, degradation that has occurred in natural ecosystems.

Section 10(2) of the Act defines sustainable management.

A water resource plan may be prepared for any part of Queensland. These policy objectives apply specifically to the Mitchell plan area, including the following watercourses and their main tributaries—

- Mitchell River
- Lynd River
- Walsh River
- Alice River
- Palmer River

Legislation consistent with policy objectives of authorising law

The Act (ss 10 and 38) provides for the Minister to prepare a water resource plan for any part of Queensland to advance the sustainable

management of water. The plan is subordinate legislation and is consistent with the policy objectives of the Act.

Alternative means of achieving policy objectives

The Act sets out the framework for development of a water resource plan. There are no alternative means of achieving the policy objectives.

Estimated cost for government

Funding for the development and implementation of the water resource plan and the resource operations plan for the Mitchell has been allocated to the Department of Natural Resources and Water ('the department'). Accordingly, costs of the plan have been budgeted for and will not change the present cost to government of administering the Act.

Consistency with fundamental legislative principles

The subordinate legislation is consistent with fundamental legislative principles.

Consultation

Government departments and agencies affected by the changes have been consulted in respect of the plan. In addition, cultural, economic and environmental interest groups have been consulted in accordance with the water resource planning process as outlined in the Act.

Outcomes of community consultation are outlined in the separate document Mitchell Water Resource Plan Consultation Report.

Regulatory impact statement

Section 58 of the Act states that a regulatory impact statement is not required for the approval of a water resource plan.

Notes on Provisions

Chapter 1 Preliminary

Part 1 provides preliminary information about the plan including the short title of the plan, the purposes of the plan and where definitions for particular words used in the plan can be found.

Short title

Clause 1 sets out the short title to the subordinate legislation ('the plan').

Purposes of the plan

Clause 2 states the purposes of the plan. The purposes reflect the requirements of section 38 of the Act.

Definitions

Clause 3 specifies that certain terms are defined in the dictionary in schedule 7.

Chapter 2 Plan area and water to which the plan applies

Plan area

Clause 4 states that a map of the plan area is shown in schedule 1. The plan area includes the following rivers and their tributaries—

- Mitchell River
- Lynd River

- Walsh River
- Alice River
- Palmer River

Clause 8 provides information for accessing further detail of the plan area boundaries.

Groundwater management areas

Clause 5 defines the groundwater management areas for the plan area as those shown on the map in schedule 2. Groundwater is water from an underground source, namely subartesian or artesian water. This groundwater occurs naturally in, or is introduced artificially into, an aquifer, which if tapped by a bore, would not flow naturally to the surface. The map in schedule 2 of the plan identifies two groundwater management areas – Great Artesian Basin Groundwater Management Area and Chillagoe Groundwater Management Area. The Great Artesian Basin Groundwater Management Area is an area which includes groundwater not already managed under the *Water Resource (Great Artesian Basin) Plan 2006*.

Clause 10(2) of the plan states that the plan does not apply to groundwater, whether artesian or subartesian, already managed under the *Water Resource (Great Artesian Basin) Plan 2006*.

Subcatchment areas

Clauses 6 defines the subcatchment areas for the plan area, referring to the map in schedule 3. The plan aims to ensure that the different types of water (overland flow, surface and groundwater) are managed holistically. The plan area is divided into subcatchments to assist in this. This catchment-based perspective allows the development of detailed management strategies which acknowledge the ecological and consumptive needs specific to smaller areas within the plan area. This also allows for more effective monitoring of the impacts of local changes on the achievement of plan objectives.

Declaration about watercourse—Act s 1006(2)

Clause 7 states that groundwater under or within 1km of a declared watercourse is treated as water in a watercourse under the *Water Act 2000* (s 1006(2)).

This approach recognises the hydraulic connection between particular groundwater and surface water systems and is important in achieving holistic management of the water. This water is not longer groundwater and instead, will be treated as water in a watercourse. This means that any water user drawing from an aquifer that is declared under this provision will require a water licence.

Aquifers declared as part of the watercourse within the plan area include groundwater that is under or within 1km of either side of the following major streams—

- Mitchell River
- Lynd River
- Walsh River
- Palmer River

A node is defined in clause 9 and shown on the map in schedule 1.

Where groundwater within the defined area of these streams is demonstrated, to the satisfaction of the chief executive, to not be hydraulically linked to water in the stream it is not to be regulated as surface water.

Information about areas

Clause 8 explains that a detailed representation of the plan area (including exact locations and boundaries) is held in electronic form by the department. Any person can visit the local departmental office to inspect the details and exact location of the plan area boundary, groundwater management area and subcatchment boundaries.

Nodes

Clause 9 defines the nodes in the plan area. Nodes are generally defined as specific locations on a watercourse within the plan area. They can be used within the water resource plan and the resource operations plan where a

definitive location or reference point is necessary. They can also be used to specify flow management rules in the resource operations plan.

Nodes are numbered and their locations shown on the map in schedule 1 and they are described in schedule 4.

Water to which plan applies

Clause 10 states that the plan applies to surface water (that is, water in a watercourse, lake, or spring and overland flow water) and groundwater water that is not connected to subartesian or artesian water managed under the *Water Resource (Great Artesian Basin) Plan 2006*.

Chapter 3 Outcomes for Sustainable Management of Water

The specification of outcomes, objectives and strategies is an important part of water resource planning. Chapter 3 provides the outcomes, including ecological outcomes, which the plan seeks to achieve through implementing particular management strategies. Outcomes are broad goals for the plan area and may include specific values or natural assets. Inclusion of these outcomes meets the requirement of section 46(1)(e) of the Act.

There are three different types of outcomes specified under the plan—

- general;
- general ecological; and
- specific ecological.

Outcomes for water in the plan area

Clause 11 establishes that outcomes under clause 12 to 15 relating to management strategies for sustainable management and allocation of water have been derived in consideration of the present environmental condition of the plan area. That is, recognising that while much of the plan area has not been developed the existing condition of the environment in some parts

of the plan area has been altered due to development of water resources including flow supplementation and water use.

The clause also establishes that water is to be allocated and managed in a way that seeks to achieve a balance in the general, ecological and specific ecological outcomes of the plan. The term balance does not necessarily imply that each outcome will be given equal weighting or that any specific weighting is attached to particular outcomes. Instead, the outcomes should be seen as a complementary set of responses to the altered natural condition of watercourses, lakes and springs resulting from water resource development.

General outcomes

Clause 12 states the general outcomes for the plan area. The general outcomes encompass economic, social and cultural goals and give an overview of what the plan aims to achieve through implementing the identified management strategies. The outcomes involve—

- providing existing water use;
- providing for environmental needs and river health;
- promoting water use efficiency and providing for future water requirements, including supporting growth in industries and population; and
- protecting cultural values.

General ecological outcomes for both surface water and groundwater

Clause 13 states the general ecological outcomes for the plan area. The plan seeks to achieve these outcomes, which include maintaining natural flow variability and connectivity, maintaining the freshwater and sediment delivery to the sea, and promoting improved understanding of how flows affect ecosystem health through implementation of management strategies.

The term *refugia* is defined for the purposes of this clause.

General ecological outcomes for groundwater only

Clause 14 applies only to groundwater in the plan area. The general ecological outcomes for groundwater involve involve—

- maintaining contributions to watercourses;
- supporting dependant ecosystems; and
- allocation and management of groundwater particularly within the Great Artesian Basin Management Area in a manner consistent with the outcomes for artesian water as defined by the *Water Resource (Great Artesian Basin) Plan 2006* where possible.

Specific ecological outcomes

Clause 15 states the specific ecological outcomes for water in particular places and ecological processes of the plan area. The areas and processes to which this section applies were identified as areas of ecological significance through community consultation and independent scientific assessment as requiring particular ecological management. It does not limit the ecological outcomes discussed in clauses 13 and 14, which continue to apply to the *entire* plan area.

The outcomes include the maintenance of—

- the cultural, ecological and tourism values of the cave ecosystems of the Chillagoe-Mungana Caves National Park;
- flood flows to the estuarine and marine environments of the Gulf of Carpentaria; and
- maintenance of natural variability of flood flows within the Southern Gulf Aggregation and the Southeast Karumba Plain Aggregation.

Chapter 4 Strategies for Achieving Outcomes

Chapter 4 provides the strategies for achieving the plan outcomes discussed in Chapter 3 as required by section 46(1)(f) of the Act.

Part 1 Strategies for both surface water and groundwater

Division 1 Preliminary

Application of pt 1

Clause 16 states this part applies to both surface water and groundwater.

Measuring devices

Clause 17 states that a measuring device must be used to measure the volume of water taken under water licences that state an annual volumetric limit. This requirement will only take effect from the day a water licence is declared to be a metered entitlement under the *Water Regulation 2002*, part 7.

Metering water use is fundamental to the responsible management of the State's water resources by ensuring that that accurate information on the amount of water taken from catchments is recorded. Metering provides information to ensure that water users comply with the conditions of their water entitlement. Measuring devices also provide accurate water use data to assist users in improving their water use management, including developing more efficient water use practices in order to maximise production.

Water use information will support improved understanding of how water resources support the rural economy, communities and the natural environment and therefore assist future planning and plan review processes.

The department, under a state-wide metering program, is installing meters in catchments where resource operation plans are in place, and in other situations.

Matters to be considered for environmental management rules

Clause 18 lists the matters the chief executive must consider when deciding the environmental management rules to be included in the resource operations plan. Matters for consideration are not limited to those listed,

and may also include consideration of any matters relevant to ensuring consistency with the plan objectives and outcomes.

Matters to be considered for water sharing rules

Clause 19 lists the matters the chief executive must consider when deciding the water sharing rules to be included in the resource operations plan, for the taking of water under both supplemented and unsupplemented water entitlements. Matters for consideration are not limited to those considerations listed and may also include consideration of any matters relevant to ensuring consistency with the plan objectives and outcomes.

Division 2 Unallocated water

Subdivision 1 Continued moratorium and interim arrangements

A moratorium on applications was announced on 6 June 2003, under section 26 of the Act. The purpose of a moratorium is to maintain levels of water take and interference whilst a water resource plan is being developed. The moratorium for the Mitchell has remained in effect until Governor in Council approval of the plan and subsequent gazettal.

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

Clause 20 continues, in part, the effect of the moratorium notice. The clause applies to applications which have any of the effects listed in subclause 2. Until the resource operations plan is approved, existing applications that would have any of these effects will not be decided and new applications that would have any of these effects will not be accepted.

This provision prevents any new applications from being accepted until the resource operations plan is approved. Additionally, applications already received will not be dealt with until the resource operation plan is in place.

A number of exemptions apply under this provision and those types of applications applications that are exempted will continue to be accepted and dealt with. These exemptions include applications to interfere with the flow of water in a watercourse or lake for stock or domestic purposes, to provide a pumping pool, or to store water not related to an entitlement,

access to strategic unallocated water, or subdivision or amalgamation of existing water licence(s).

Once the resource operations plan is in place, it is intended new water entitlements will be made available only through the release of unallocated water. Water will also be available through the seasonal trading of water licences in the upper Mitchell subcatchment.

Interim arrangements for application about unallocated water

Clause 21 allows for applications for water for projects of State or regional significance, water supply for urban use or for the promotion of eco-tourism to still be accepted and dealt with under this plan until the resource operations plan states a process for deciding these applications.

Where the chief executive has approved any applications made under this provision, the volume granted is sourced from the total volume of unallocated water identified as strategic reserve available under the plan.

Subdivision 2 Project of regional significance

Projects that may be considered to be of regional significance

Clause 22 allows for the chief executive to decide that a project is of significance to the region, after having regard to the matters listed.

Subdivision 3 Dealing with unallocated water under a resource operations plan generally

Unallocated water held as Indigenous, strategic or general reserve

Clause 23 states that there are three types of unallocated water reserves that may be made available under the resource operations plan, and the locations within the plan area where those reserves may be made available. The *Cape York Peninsula Heritage Act 2007* establishes the Cape York Peninsula Region and the requirement provide a reserve of water for Indigenous purposes. Indigenous unallocated water may only be made available in the Cape York Peninsula Region.

Strategic reserve is held for State purposes such as projects of State and regional significance, town water supply, and ecotourism. Strategic unallocated water is available across the plan area.

General reserve is held for any purpose (for example, irrigation or aquaculture). A specific volume of general unallocated water has been reserved for use in the upper Mitchell subcatchment area only. A different volume of general unallocated water has been reserved for use in the rest of the plan area.

Granting unallocated water

Clause 24 states that unallocated water held as Indigenous, strategic or general reserve may only be granted as a water licence under a process stated in the resource operations plan.

Preparing and implementing process in resource operations plan generally

Clause 25 states criteria that must be considered when preparing and implementing a process for the release of unallocated water under the resource operations plan. This does not limit potential considerations. These criteria reflect the departmental policy principles that guide the release of unallocated water and seek to encourage sustainable and efficient use of water.

Matters that must be considered include environmental management rules established under the resource operations plan. The environmental management rules are complimentary to the outcomes, including ecological outcomes, of the plan. As the criteria listed under this clause includes consideration of the impact on other water users and environmental management rules, in effect every decision to grant unallocated water considers the cumulative impact of decisions in combination with all decisions made previously.

The clause also triggers section 77 of the Act which requires an approved land and water management plan for the take of water under a new water licence for the purpose of irrigation.

This approach provides flexibility in the plan, whilst also preventing dealings with unallocated water that would be contrary to achieving plan outcomes and objectives.

Additional requirements for dealing with unallocated water that is groundwater

Clause 26 applies only to the Chillagoe groundwater management area. Under the resource operations plan, any person wishing to obtain a water licence to take unallocated groundwater from these areas, may be required by the chief executive to provide a report detailing the impacts of the proposed take on both groundwater and surface water flows. Such a report will assist the chief executive in making a decision on the application.

Subdivision 4 Limitations on granting unallocated water from indigenous reserve

Purpose for which Indigenous unallocated water may be granted

Clause 27 reflects the requirement under the *Cape York Peninsula Heritage Act 2007* for the plan to provide a reserve of water for the purpose of helping Indigenous communities in the Cape York Peninsula Region area achieve their economic and social aspirations. Indigenous unallocated water may only be granted for this purpose.

Volumetric limits for indigenous unallocated water

Clause 28 states that a total annual volume of not more than 5000ML has been identified as Indigenous unallocated water and may be granted in the form of water licences for the purpose mentioned in clause 26A above.

Subdivision 5 Limitations on granting unallocated water from strategic reserve

Purpose for which strategic unallocated water may be granted

Clause 29 states that strategic unallocated water will only be made available if it is for State purposes, such as a project of State significance, town water supplies or ecotourism.

Volumetric limits for strategic unallocated water

Clause 30 states that the maximum volumetric limit for take of strategic unallocated water per water year for the entire plan area is 10000ML.

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

Clause 31 indicates that, for a project of State or regional significance, water granted from strategic unallocated water is only granted for the life of the project. The right to take this water returns to the State upon project completion. This allows for water to be continually available for new and future projects which only require water for a limited time.

Subdivision 6 Limitations on granting unallocated water from general reserve**Purpose for which general unallocated water may be granted**

Clause 32 states that general reserve water may be granted for any purpose.

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

Clause 33 states that the total maximum volumetric limit of general unallocated water per water year for all water licences combined in the area upstream of node 1, in the upper Mitchell subcatchment, is 20000ML. The Southedge Dam is located within this area and the general unallocated water may be made available from this storage.

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

Clause 34 states that the maximum take of general unallocated water per water year for all water licences combined in the area downstream of node 1 is 35000ML.

Part 2 Additional strategies for surface water

Division 1 Preliminary

Application of pt 2

Clause 35 states that part 2 applies to surface water only. Part 2 strategies are in addition to part 1 strategies.

Accepting and deciding particular applications to interfere with water

Clause 36 Subclause (1) and (2) states that a water licence application for in stream works (e.g. dam or weir), other than for unallocated water, may be accepted and dealt with where the proposed interference, or increase in interference, is for—

- stock and domestic purposes;
- a pumping pool of less than 10ML capacity associated with an existing water entitlement; or
- to store less than 250ML of water for a non consumptive purpose such as flood mitigation.

This section does not cover applications for unallocated water.

Where the criteria under Subclause (3) are met, the chief executive may decide to approve the application. Meeting the criteria does not guarantee that the application will be approved.

Subclause (6) defines a *pumping pool* for the purpose of this section.

Restrictions on taking water from waterhole or lake

Clause 37 allows the chief executive to place restrictions on taking water from waterholes or lakes. Natural waterholes and lakes are recognised as important habitats and places of refuge for aquatic plants and animals and can have significant cultural value to traditional owners.

In making a decision about an authorisation to take water from a waterhole or lake, the chief executive may apply conditions to the authorisation to

restrict the situations in which water can be taken, in order to safeguard the cultural and ecological values of natural waterholes and lakes.

In a case where conditions on a licence (e.g. pumping times) to take water from a waterhole or lake could allow protection of ecological or cultural values without imposing economic hardship this may allow protection of both interests.

The chief executive may choose not to place conditions on an authorisation if satisfied that the taking of water under the authorisation will not adversely affect the ecological or cultural values of the waterhole or lake. Further, if applying a condition to an existing authorisation that is in force prior to the commencement of the plan would cause the holder to suffer economic hardship, then the chief executive may choose not to impose a condition.

Division 2 Unsupplemented surface water that was groundwater in aquifers

Application of div 2

Clause 38 states that this subdivision applies to water which was declared to be water in a watercourse under section 7 (*declared water*).

Existing water licences for declared water

Clause 39 states that, upon commencement of the plan, an existing licence to take declared water will be treated as if it is a water licence to take unsupplemented surface water. As soon as practicable the chief executive must amend the licence to include the elements stated in section 45 and ensure they will be consistent with the requirements for water licences in this plan (Division 4).

Taking declared water using existing water bores authorised

Clause 40 applies to the owner of an existing water bore that takes declared water and did not require a water licence before commencement of this plan.

The owner is authorised to continue to take water for 12 months after the plan commencement. If the owner notifies the chief executive of the bore within the 12 month period, the owner may continue to take water until the

owner is granted a water licence. The owner may only take the relevant annual volumetric limit of declared water (that is, the amount the owner was taking before 17 October 2003 per water year). If these conditions are not complied with, the continued authorisation may be lost. For example if notification is given within the 12 months however, a volume larger than the relevant annual volumetric limit is taken, the additional take is not authorised. Similarly, if notification is not provided within 12 months of the plan commencing, the take of that water would no longer be authorised.

Granting water licences for authorities under s 40

Clause 41 states that if the bore owner notifies the chief executive of an existing bore in an approved form, the chief executive must grant a water licence to take unsupplemented surface water. The licence must be consistent with the requirements of Part 2, Division 4 of this plan however, the annual volumetric limit must reflect historical annual take prior to 17 October 2003. Grant of a water licence under this provision may not occur immediately and may involve grant to those areas where the priority for granting is higher due to factors such as levels of water use.

Division 3 Replacing authorities with water licences and granting or amending water licences

The plan recognises the variety of pre-existing entitlements that were granted under previous legislative regimes. This subdivision provides for those entitlements to be brought into the framework established under the *Water Act 2000*.

Water licences to replace local government authorities

Clause 42 refers to a local government authorities issued under the now repealed *Local Government Act 1936*. The *Water Act 2000*, section 1037, allows these types of authorities to be continued until replaced with a water entitlement. This section provides for the granting of water licences, within 30 business days of the commencement of the plan, to the Mareeba Shire Councils to replace existing authorisation which is described in Schedule 5 of the plan.

Conditions for water licences granted or amended under s 42

Clause 43 states that if any environmental management rules, infrastructure operating rules or water sharing rules are developed in the resource operations plan, then the chief executive must amend the licence granted under section 42 to give effect to the rules.

Division 4 Water licences to take or interfere with surface water

Application of div 4

Clause 44 indicates that this division applies to surface water licences in addition to those granted under section 42.

Water licence to take surface water

Clause 45 states matters that must be stated on an unsupplemented surface water licence. The matters listed are consistent with requirements of the *Water Act 2000* (section 213 and 214).

Purpose to be stated on water licence

Clause 46 states that a licence to take unsupplemented surface water must state its purpose, or intended use.

If the intended use for the water is irrigation, stock intensive, agriculture or similar, the purpose on the water licence must be 'rural'. For all other uses, the purpose stated on a water licence must be 'any'.

Maximum rates for taking surface water

Clause 47 specifies how the maximum rate at which water may be taken under a water licence is to be determined.

If a maximum rate of take is stated on the existing licence then that same rate will apply to the water licence. If a licence does not specify a maximum rate of take, a standard pump schedule, as provided in schedule 6 of this plan, will be used to determine the maximum rate of take.

There is also scope for the holder of a licence to apply for an alternative rate of take. The chief executive may approve a different maximum rate of

take after considering the conditions under which the water may be taken, existing pumping capacity, the previous 10 years of irrigation use and water use efficiency.

Daily volumetric limit for taking surface water

Clause 48 specifies how the daily volumetric limit for take of surface water licences is to be determined. If the daily volumetric limit is already stated on the existing licence then that rate will be used. If a licence does not specify a daily volumetric limit a standard pump schedule (as provided in schedule 6 of this plan) will be used to determine the daily volumetric limit.

There is also scope for the holder of a licence to apply for an alternative daily volumetric limit. The chief executive may approve a different daily volumetric limit after considering the conditions under which the water may be taken, existing pumping capacity, the previous 10 years of irrigation use and water use efficiency.

However the chief executive must not approve a daily volumetric limit that is greater than the volume of water that could be taken in a day at the maximum rate of take that is identified for the licence under clause 47.

Annual volumetric limit for taking surface water

Clause 49 specifies how the maximum volume of take for unsupplemented surface water licences is to be determined. The annual volumetric limit represents the maximum amount of water that can be taken under the water licence in a water year.

If the annual volumetric limit is already stated on the existing licence then that volume will be used.

If the licence states an area that may be irrigated under the licence, then the chief executive may decide the annual volumetric limit by multiplying this area in hectares by 12ML. However in the upper Mitchell subcatchment the annual volumetric limit may be determined by multiplying the area in hectares by 10.

For any other licence the chief executive may decide the volume after having regard to the matters listed.

Conditions for taking unsupplemented surface water

Clause 50 states that the chief executive may determine and impose any condition on an unsupplemented water licence if it is necessary to ensure the purpose and outcomes of the plan are achieved. In deciding flow conditions under which water may be taken under a water licence, the chief executive must have regard to the conditions on an existing licence.

For example, it may be necessary to include other conditions on a water licence where water availability is limited during seasonal times of low flow.

Condition that must be imposed on upper Mitchell licences

Clause 51 states that in the upper Mitchell subcatchment the chief executive may also impose a condition on a licence that a maximum volume (in megalitres) may only be taken between July and December of every water year, with that maximum volume determined by multiplying the area of the licence in hectares by 6.6. That is, up to 66% of the annual volumetric limit may be taken from July to December. If a licensee takes less than 66% of their annual volumetric limit during July to December, they may take the remainder of their entitlement, up to 100%, during the remainder of the year.

Condition about storing unsupplemented water taken under a water licence

Clause 52 states that, without limiting the effect of clause 50(1), the chief executive may impose a condition on an unsupplemented water licence that states the works that may be used to store water taken under the licence, for example a particular off stream storage.

In deciding whether to impose a condition the chief executive must have regard to the capacity of any existing overland flow works being used to store the water taken under the licence. This clause is to ensure plan outcomes are not compromised by actions that may increase the take of surface water beyond that provided for under the plan.

Conditions giving effect to rules

Clause 53 states that if any environmental management rules, operating rules or water sharing rules are developed in the resource operations plan the chief executive must amend affected existing licences on the

commencement of the resource operations plan to impose conditions to give effect to the new rules.

Any water licences granted after the commencement of the resource operations plan must also include conditions giving effect to the rules.

Division 5 Regulation of overland flow water

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

Clause 54 specifies the situations in which a person may take overland flow water in accordance with section 20(6) of the Act. This means that the taking of overland flow water in the plan area is prohibited unless authorised under this clause. The plan allows for the take of overland flow water for stock and domestic purposes, small scale storages, under a water licence, to satisfy a requirement of the *Environmental Protection Act 1994* and existing works that are authorised under section 55.

Taking water using particular existing overland flow works authorised

Clause 54 authorises the owner of land on which existing overland flow works are situated to continue to take overland flow water using the works for a period of 12 months after the commencement of the plan. This clause does not apply to existing works for the taking of only the overland flow water that may be taken under clause 54.

Within this 1 year period the landholder must, in the approved form, give the chief executive notice of the existing overland flow works and any further information reasonably required by the chief executive about the works in order to be authorised to continue to take overland flow water using the works beyond the 1 year period and until granted a water licence.

This clause does not apply to existing works for the taking of only the overland flow water that may be taken under clause 54. As such, an owner of land on which these particular existing overland flow works are situated is authorised to continue to take overland flow water using the works and is not required to notify the chief executive of these existing works. For example, an owner of land with existing works for the taking of overland flow water only for stock or domestic purposes is not required to notify the department of these works.

Overland flow works are works that interfere with or take overland flow. They include pumps, storages, and drains which take or store water; works for ponding overland flow for purposes such as ponded pasture; and, redirection of overland flow water to increase take (e.g. levees, diversion banks into dams).

Granting or amending water licences under the resource operations plan

Clause 56 applies to the resource operations plan process for granting a water licence to replace an authority given under clause 55, which allowed the continued use of existing works to take overland flow water.

In following the process for granting or amending a water licence, the chief executive must have regard to the average annual volume of overland flow water that could have been taken using the existing works immediately before the commencement of the plan. The chief executive must also consider the estimated annual volumes of overland flow water taken using the existing works during the period of up to 10 years prior to the commencement of the plan.

Additionally, the chief executive may consider the extent to which the existing works allowed the taking or storage of water under another authorisation. For example, the existing overland flow works may also allow the storage of water taken from a watercourse under a water licence which may affect the amount of overland flow water captured by the existing overland flow works.

The chief executive may also consider other matters.

In addition, the process must provide that the chief executive may require a certificate from a registered professional engineer of Queensland, which states information about the works including their capacity and rate at which water can be taken by the works.

Relationship with Integrated Planning Act 1997

Clause 57 states that works for taking overland flow water are assessable under the *Integrated Planning Act 1999* (IPA). Prior to constructing works that allow the taking of overland flow water a development permit under the IPA is required. The clause does not apply to repairs or maintenance to existing works, or works constructed in accordance with a development permit that do not alter the design of the existing works.

Works for taking overland flow that are classed as self-assessable under IPA include—

- stock and domestic;
- small storages of less than 250ML capacity;
- to satisfy an environmental authority;
- to satisfy a development permit for carrying out an environmentally relevant activity.

Part 3 Additional strategies for groundwater water

Division 1 Preliminary

Application of pt 3

Clause 58 states that this part applies to groundwater only and provides strategies that area in addition to part 1.

Relationship with Integrated Planning Act 1997

Clause 59 states that all works for taking groundwater water within the plan area are assessable under the *Integrated Planning Act 1997* (IPA). However, if the works are located outside the Great Artesian Basin groundwater management area and are for stock and domestic purposes the works are self-assessable development under the IPA.

This clause is included to ensure that works to take groundwater do not inadvertently affect artesian water.

Division 2 Strategies for Chillagoe Groundwater Management Area

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

Clause 60 states that in the Chillagoe Groundwater Management Area, groundwater may only be taken for stock or domestic purposes or under a water licence.

Water licence to take groundwater

Clause 61 states that in the Chillagoe groundwater management areas a water licence to take groundwater must state the purpose for which the water is intended and an annual volumetric limit. For licences to take for the purpose of dewatering, an annual volumetric limit may, but is not required to be, stated on the licence.

Purpose to be stated on water licence

Clause 62 states that in the Chillagoe groundwater management area a water licence to take groundwater must state one of three purposes – ‘rural’, ‘dewatering’ or ‘any’.

Amendment of water licences to state annual volumetric limit

Clause 62 states that in the Chillagoe groundwater management area an existing water licence to take groundwater water that does not state a maximum annual volume of take, may be amended to specify a volume. In determining the maximum annual volume of the licence regard will be paid to the existing conditions of the licence, water use efficiency practices, impact of the take of water on the water resources, estimated prior level of take and limits placed on other licences in the area, alternative water supply options and the results of any bore testing undertaken by the licence holder.

Conditions for taking groundwater

Clause 64 states that in the Chillagoe groundwater management area the chief executive may impose conditions listed on a water licence to take groundwater granted after the commencement of the plan.

Conditions may include requirements to provide and maintain access to alternative water supplies to other water licence holders that would be affected by the granting of a new entitlement or to monitor and report on the impact of the taking of groundwater under the new licence.

The Chillagoe groundwater management area is established in recognition of potential threat to groundwater resources of active management is not implemented. This provision provides active management of potential supply issues and information about impact of increased groundwater use.

Taking water using existing water bores authorised

Clause 65 authorises the owner of an existing water bore that takes water from the Chillagoe groundwater management area and did not require a water licence before the commencement of this plan to continue to take groundwater using the works for a period of 1 year after the commencement of this plan.

Within this 1 year period the bore owner must, in the approved form, give the chief executive notice of the existing bore and any further information reasonably required by the chief executive about the works in order to be authorised to continue to take groundwater using the works beyond the 1 year period, and until granted a water licence. The owner must only take the relevant annual volumetric limit of groundwater water.

Granting water licences for authorities under s 65

Clause 66 states that if the bore owner complies with section 65(2) and notifies the chief executive of the bore in an approved form, the chief executive must grant a water licence to take unsupplemented surface water. The licence must be consistent with this division.

Chapter 5 Monitoring and Reporting Requirements

Monitoring and reporting provide a basis for measuring the effectiveness of the plan in achieving its stated plan outcomes.

Monitoring and regular reporting on the plan will mean that any emerging issues can be addressed.

Monitoring

Clause 67 details the water and natural ecosystems monitoring requirements used to assist in gauging the effectiveness of proposed management strategies for achieving the outcomes of the plan. The monitoring requirements are to be achieved by programs undertaken by operators of infrastructure and programs administered by the chief executive and relevant State agencies.

Monitoring programs undertaken by operators of infrastructure

Clause 68 states that operators of infrastructure for interfering with water (a resource operations licence holder or a distribution operations licence holder) must develop and implement the relevant monitoring arrangements listed in the resource operations plan. This enables the chief executive to assess the effectiveness of the strategies outlined in Chapter 4.

Operators of infrastructure to give reports

Clause 69 specifies that an operator of infrastructure for interfering with water must give a written report to the chief executive relating to the operation of infrastructure, detailing—

- the information obtained by the monitoring programs mentioned in clause 68;
- decisions made by the operator in managing water and infrastructure or distributing water;
- information about non-compliance by the operator with the requirements of the resource operations plan; and
- any remedial or emergency action taken by the operator.

The extent to which this information is required to be provided by any particular operator will be specified in the resource operations plan.

This clause also specifies the timing for giving these written reports.

Minister's report on plan—Act, s 53

Clause 70 specifies the requirements for the preparation of the Minister's report on the plan.

The intent of this report is to assess the effectiveness of the implementation of the plan in achieving the plan's outcomes.

The first report must be prepared for the financial year in which the resource operations plan commences. A subsequent report must be prepared for each financial year the plan is in force. Each report must be prepared within 6 months after the end of the financial year to which the report relates.

If the Minister is satisfied about any of the matters outlined in clause 73 of this plan, as triggers for considering amending or replacing the plan, the report must include a consideration of the matters.

In accordance with section 1009 of the Act, the chief executive must make a copy of the report available for inspection or purchase by the public, during office hours on business days, at the head office or the appropriate regional office of the department.

Chapter 6 Implementing and Amending this Plan

The water resource plan will be primarily implemented through a resource operations plan. The resource operations plan will set out how existing water entitlements will be amended to water licences and allocations. The resource operations plan will also define, for each part of the plan area, the water sharing and environmental flow rules that will be applied in the to ensure the water resource plan outcomes are achieved. Water service providers will be required to show through monitoring and reporting that operating arrangements for their supply infrastructure comply with these rules.

Implementation schedule

Clause 71 provides schedule for the implementation of the plan through the resource operations plan. Within one year after the commencement of the

plan, the matters detailed in subclause (2) are proposed to be implemented through the preparation of a resource operations plan.

Minor or stated amendment of plan—Act, s 57

Clause 72 states the types of amendments that may be made to the Plan under s 57(b) of the Act. A minor amendment is one to correct a minor effort or to make a change that is not a change of substance and a stated amendment is one that is listed in a water resource plan. These types of amendments to the plan allow for efficient and timely responses to changes occurring in the plan area. These changes do not require public notification, with the exception of an amendment to the continued effect of the moratorium notice.

Amending or replacing plan

Clause 73 outlines situations where the Minister must consider amending the plan or preparing a new plan.

The Minister must consider amending or replacing the plan if satisfied, in relation to the plan general outcomes, water entitlements in the plan area are not sufficient to meet water needs and that an ecologically sustainable use for additional water exists. In considering whether water entitlements are sufficient, the Minister must have regard to a number of matters including the extent to which water is being taken under existing entitlements, the efficiency of water use, emerging water demands, water savings that may be made from improvements in water use efficiency or the use of water from other sources and the likely timeframe for additional water requirements.

Additionally, the Minister must consider amending or replacing the plan if satisfied that the plan general ecological outcomes or specific ecological outcomes are not being achieved.

This clause ensures there is a mechanism for a possible amendment of the plan if a major change in circumstances related to water demand or environmental water needs arise.

Schedules

Plan area

Schedule 1 shows the area to which this plan applies and the location of nodes.

Groundwater management areas

Schedule 2 shows the boundaries of the Groundwater Management Areas used in the plan on a map.

Subcatchment areas

Schedule 3 shows the subcatchment area boundary used in the plan on a map.

Nodes

Schedule 4 lists the nodes referred to in the plan and a description of their location. Their location is given as a measurement of Adopted Middle Thread Distance (AMTD), which gives the distance in kilometres, measured along the middle of the watercourse that a particular node is situated, from the mouth of that water system, or junction with the main watercourse.

Water licences to replace local government authorities

Schedule 5 states the details to be included on new licences which replace the pre-existing authorities to take of water held by Mareeba Shire Council.

Rates, volumetric limits and pump sizes

Schedule 6 states the rates, volumetric limits and pump sizes for determining details to be stated on water licences, in accordance with sections 45 and 46 of the plan, as—

- maximum rate of take of water in litres per second; and
- the daily volumetric limit in megalitres according to pump sizes.

Dictionary

Schedule 7 is the dictionary of defined terms used in the plan.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Natural Resources and Water.