

Water Plan (Cape York) 2019

Explanatory notes for SL 2019 No. 90

made under the

Water Act 2000

General Outline

Short title

Water Plan (Cape York) 2019

Authorising law

Sections 42, 44, 45, 46, 47 and 48 the *Water Act 2000*

Policy objectives and the reasons for them

Section 42 of the *Water Act 2000* (the Act) provides for the Minister to prepare a water plan for any part of Queensland to advance the sustainable management of water.

The objective of the *Water Plan (Cape York) 2019* (the plan) is to provide a framework for the allocation and sustainable management of surface water, underground water and overland flow water in the Cape York area. The plan's strategies ensure future water requirements can be met whilst protecting natural ecosystems and maintaining supply to existing water users.

Achievement of policy objectives

The plan provides for the allocation and sustainable management of water in the plan area by—

- defining the availability of water; and
- providing a framework for sustainably managing water; and
- identifying priorities and mechanisms for dealing with future water requirements; and
- regulating the taking of and interference with surface water, and the taking of underground water; and
- providing a framework for establishing and managing water allocations; and

- providing access to water resources to help Aboriginal people and Torres Strait Islanders achieve their economic, social and cultural needs and aspirations; and
- providing a framework for reversing, where practicable, the degradation of natural ecosystems caused by the taking of, or interference with, water to.

Consistency with policy objectives of authorising law

The plan is consistent with the main objectives of the Act which is to provide a framework for the sustainable management of Queensland's water resources.

Inconsistency with policy objectives of other legislation

The plan is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

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

Benefits and costs of implementation

Implementation of the plan will provide:

- a framework for the allocation and sustainable management of water.
- grant of a water entitlement to Aboriginal people and Torres Strait Islanders to provide real decision-making and a range of economic opportunities consistent with the objectives of the *Cape York Peninsula Heritage Act 2007*.
- establishment of environmental flow objectives and management rules which aims to maintain natural flow patterns, protect environmental values and deliver Great Barrier Reef outcomes.
- enhanced management of underground water resources for existing users and to reflect environmental and cultural values.
- management of overland flow in all catchments with enhanced limits on new overland flow storages in the Normanby catchment where current overland flow development poses the greatest risk to existing users and cultural values.
- clearly specified surface and underground licences that state volumetric limits and introduce the flexibility to relocate (trade) licences.
- conversion of surface water licences to tradeable water allocations in the Endeavour catchment to allow water to move to its highest value use.

The majority of the costs for implementing the plan are currently within existing budgets. These include existing management arrangements being implemented for water in Cape York such as:

- managing particular types of water in particular areas of Cape York (for example Lakeland) under the *Water Regulation 2016*;

- dealing with works notifications under the Moratorium Notice;
- accepting and deciding water licence dealing applications.

An implementation plan has been developed by the chief executive for activities needed to implement the plan.

For some of the implementation tasks the workload can be predicted and existing resources realigned as the tasks can be considered “business as usual”. However, for some of the tasks, such as measuring of take and implementing the *monitoring, evaluation and reporting strategy*, the resourcing requirements cannot be predicted as state wide policy questions are yet to be resolved. Therefore, there may be a need to realign resources within the Department of Natural Resources, Mines and Energy once resource requirements are confirmed.

Consistency with fundamental legislative principles

As subordinate legislation the plan is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Agencies affected by the plan have been consulted. Section 46 of the Act details the requirements for publishing the draft water plan and details on how submissions may be made.

A public notice was published in the Cape York News stating the release of the draft Water Plan (Cape York) (draft water plan) and where further information could be located. Public information sessions were held in Cooktown and Lakeland to explain the provisions of the draft water plan. In addition to this, 11 rounds of one-on-one meetings with traditional owners and key stakeholders such as irrigators and environmental groups, four public meetings with local governments in the plan area and five meetings with each of the three water consultation groups took place.

Submissions were invited from entitlement holders and stakeholders. Thirty-three submissions were received and were considered in finalising the plan. There were no issues raised in submissions that resulted in a change of substance to the draft water plan. Further information about the consultation process and outcomes of community consultation are outlined in a separate document, the *Water Plan (Cape York) 2019 Minister’s Consideration Report* which is publicly available on the Department of Natural Resources, Mines and Energy website.

On 19 December 2016 the Queensland Productivity Commission (QPC) advised the department that where the process to make or amend water plans is followed as per the provisions in the Act, the plans will have undergone an extensive impact assessment process and the QPC therefore considers that, under the Queensland Government Guide to Better Regulation, the department is not required to seek advice from the QPC.

Notes on provisions

Part 1 Preliminary

Clause 1 states that this plan may be cited as the *Water Plan (Cape York) 2019*.

Clause 2 states the purposes of the plan in providing a framework for the sustainable management of water.

Clause 3 states the particular words used in this plan are defined in schedule 9.

Clause 4 defines surface water for this plan as being water in a watercourse, lake or spring; or overland flow water.

Part 2 Plan area, water to which plan applies and other matters

Clause 5 states the water to which this plan applies. This plan applies to surface water and underground water in the plan area. However, it does not apply to:

- surface water in a spring connected to water to which the *Water Plan (Great Artesian Basin and Other Regional Aquifers) 2017* applies; or
- underground water to which the *Water Plan (Great Artesian Basin and Other Regional Aquifers) 2017* applies.

The plan does not apply to the water rights taken under the two Special Agreement Acts that exist between the Queensland Government and Comalco and Rio Tinto Alcan Inc, over land in Cape York. The volume of water that can be granted under these special agreement Acts in the future is separate from, and in addition to, the unallocated water volumes provided in the plan.

Clauses 6 to 13 state the types of areas and locations referred to in this plan, and where each of these locations or areas are described in the plan.

Clause 14 states that information about, or the exact boundaries, of an area or location stated in clauses 6 to 11 are held in digital electronic form by the department and may be accessed, free of charge, at each office of the department.

Part 3 Water plan outcomes

Clause 15 and 16 states that a water plan outcome for this plan is that water is to be allocated and managed in a way that—

- recognises the natural state of watercourses, lakes, springs and aquifers may change because of the taking of, and interfering with, water; and

- seeks to achieve a balance between the economic, social, cultural and environmental outcomes stated; and
- promotes improved understanding of—
 - matters affecting the flow-related, and underground water-dependent, health of ecosystems, including springs, in the plan area; and
 - the flow requirements of ecosystems in the plan area; and
 - the water required for social, spiritual and cultural uses by Aboriginal people and Torres Strait Islanders; and
 - the water required to deliver social and economic benefits to communities in the plan area; and
 - the impact of climate change on water availability.

Under section 43(1)(b) of the Act, a water plan must state the desired economic outcomes, social outcomes, cultural outcomes and environmental outcomes of the management and allocation of water to which the plan applies. Clauses 17 to 20 respectively state the economic, social, cultural and environmental outcomes for this plan.

Part 4 Measures for achieving water plan outcomes

Clause 21 and 22 state the measures that will contribute to achieving the plan outcomes.

The measures stated in the plan provide quantifiable and objective links between high level outcomes and specific management actions.

The measures require a number of actions to be undertaken by the chief executive within specified timeframes stated in the water plan.

The general measures that contribute to achieving the water plan outcomes stated in sections 17(1)(a) and 20(1) for this water plan are—

- by 31 December 2022, all water entitlements are measured as directed by the chief executive;
- all water entitlements granted after the commencement are measured, as directed by the chief executive, when they are granted;
- a monitoring, evaluation and reporting strategy is developed by the chief executive by 30 June 2020 to support the assessment of the effectiveness of this plan and its implementation;
- a monitoring, evaluation and reporting strategy for the Lakeland water licence zones 1 and 2 is developed by the chief executive by 30 June 2020, to support the assessment of springs and the underground water regime in those water licence zones.
- the chief executive authorises the use of existing overland flow works to take overland flow water, under the process stated in the water management protocol, within 5 years after the commencement of the plan.

The economic and social measures for this water plan are—

- an analysis on, and information about, the number and volume of water licence trades, and the number, value and volume of water allocation trades is collected and analysed; and are published by the chief executive within 5 years after the commencement of this water plan; and
- opportunities to improve the effectiveness and efficiency of the market in tradeable water entitlements are analysed; and
- water entitlements authorising the taking of unallocated water in the Cape York Peninsula Heritage Area reserve are granted to eligible persons within 5 years after the commencement of this plan.

Part 5 Objectives and performance indicators

Clause 23 states that the environmental flow objectives and the performance indicators for the environmental flow objectives are stated in schedule 7.

Clause 24 states that the performance indicator for the water allocation security objectives is the annual volume probability. The water allocation security objectives for water allocation groups are—

- for water allocation group class 1, the annual volume probability must be at least 80%;
- for water allocation group class 2, the annual volume probability must be at least 50%.

Clause 24 defines *annual volume probability* to be for a water allocation group, means the percentage of the years in the simulation period in which the volume of water permitted to have been taken by the group was at least the total of the nominal volumes for the allocations in the group.

Part 6 Strategies for achieving water plan outcomes

Clauses 25 and 26 state how decisions made by the chief executive must be consistent with the environmental flow objectives and water allocation security objectives, and how the chief executive must assess the impact of a decision to ensure it is consistent with the objectives.

Clause 25 states that a decision made by the chief executive about the allocation or management of water to which this plan applies, other than a decision about a water permit, must be consistent with the environmental flow objectives and the water allocation security objectives.

Clause 26 states that the Source Rivers computer program must be used to assess the consistency of a decision with the environmental flow objectives and the water allocation security objectives; and to assist the chief executive to decide flow conditions for water licences.

However, if it is not practicable for the chief executive to use the Source Rivers computer program another assessment method approved by the chief executive may be used if

the chief executive is satisfied the method will accurately assess consistency with the environmental flow objectives and the water allocation security objectives, and the water plan outcomes.

Part 7 Limits on taking or interfering with water

Part 7 describes the limitation for, or on, taking or interfering with particular types of water in the plan area.

Clause 27 states that a person must not take more than 5ML of water during a water year for all activities prescribed under section 101(1)(a) of the Act. However, a person must not take underground water for all activities prescribed under section 101(1)(a) of the Act if the take is from Lakeland water licence zone 1 or 2. A person in Lakeland water licence zone 1 or 2 may take no more than 5ML of surface water during a water year for all activities prescribed under section 101(1)(a) of the Act.

A total of 5ML is available for all prescribed activities occurring across the enterprise. Any water taken for a prescribed activity relates to the enterprise and not 'per lot'. Where the enterprise is located across a number of land parcels only 5ML is available in total for all prescribed activities occurring across the enterprise.

Clause 28 states that a person must not take overland flow water to which this plan applies under section 101(1)(b) of the Act, unless the water is taken—

- under a water licence; or
- for stock purposes or domestic purposes; or
- using existing works in the plan area and the take of overland flow water is authorised under the water management protocol; or
- using works other than existing works if:
 - for which the chief executive received a notice on or before 31 July 2018
 - if a development approval is required for the works—the development approval is granted on or before 31 December 2021; and
 - the take of water is authorised under the water management protocol;
- for another purpose if the works for taking the water have a capacity of not more than 50ML, and are not located in the Normanby catchment; or
- for an activity prescribed under section 101(1)(a) of the Act;

For clause 28 subsection (1)(e), a person must not take overland flow water for another purpose in the Normanby catchment. However, take of overland flow water in the Normanby catchment is still permitted for subsections (a) to (d).

Clause 29 states that a person must not take or interfere with underground water under section 101(1)(c) of the Act, unless the water is taken—

- under a water licence or water permit; or
- for stock purposes or domestic purposes; or

Clause 30 states that water may be taken for a stock or domestic purpose under section 103(a) of the Act for the Endeavour catchment, Jeannie catchment or Normanby catchment, if the water is taken from a location stated on a water licence, and in a way

authorised under a water licence. For all other catchments in the plan area, water is authorised to be taken for stock purposes or domestic purposes under section 103(a) of the Act without a water licence in any way.

Part 8 Unallocated water

Part 8 of the plan states the—

- types of unallocated water reserved;
- total volume of unallocated water reserved;
- purpose for which a type of unallocated water reserve may be released;
- processes for releasing unallocated water;
- processes for the chief executive to offer to grant a water licence to an eligible person; and
- expiry of water entitlements granted for particular projects.

Clause 31 states that the total volume of unallocated water reserved under this plan is 516,350 ML. Unallocated water is held in three different types of reserves— a Cape York Peninsula Heritage Area reserve, a strategic reserve and a general reserve. Water that a relevant company may take or interfere with under a special agreement Act mentioned in chapter 3, part 3C, divisions 1 or 2 of the Act is not unallocated water.

The water management protocol states the volumes of unallocated water held in each reserve in each catchment.

Clauses 32-35 state the purposes for which water can be granted from a particular reserve, the process for granting water from a particular reserve and other matters relevant to the granting of water from a reserve.

The purposes for which the unallocated water reserves can be granted are detailed below.

Cape York Peninsula Heritage Area Reserve

Clause 32 states that unallocated water held as a Cape York Peninsula Heritage Area reserve may be granted to an eligible person for the purpose of helping an Aboriginal or Torres Strait Islander community in the Cape York Peninsula Region achieve their economic and social aspirations. An eligible person for this reserve is—

- an entity that holds land under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*; or
- a native title holder under the *Native Title Act 1993* (Cwth).

Clause 33 states that the chief executive must offer to grant an eligible person a water licence from the Cape York Peninsula Heritage Area reserve in the catchment for the purpose of helping an Aboriginal or Torres Strait Islander community in the Cape York Peninsula Region achieve their economic and social aspirations. However, this will only apply if—

- the eligible person has an interest in land in a catchment; and

- on the commencement of the plan, there is unallocated water held as a Cape York Peninsula Heritage Area reserve in the catchment.

If, on the commencement of the plan, there is no unallocated water held as a Cape York Peninsula Heritage Area reserve in the catchment, the eligible person may ask the chief executive, in writing, to be granted a water licence from the strategic reserve. The water licence must be granted to the eligible person for a project for the economic or social benefit of Aboriginal people or Torres Strait Islanders.

Clause 34 states that the process for releasing unallocated water from the Cape York Peninsula Heritage Area reserve is the process stated in the water management protocol. Unallocated water granted from the Cape York Peninsula Heritage Area reserve must only be granted as a water licence.

Strategic reserve

Clause 32 states that unallocated water held as a strategic reserve may be granted for a State purpose or to an eligible person for a project for the economic or social benefit of Aboriginal people or Torres Strait Islanders. A State purpose is defined as—

- a coordinated project;
- a project of regional significance;
- town water supply.

A project of regional significance is a project that the chief executive considers is significant for a region in the plan area after considering the following matters—

- the outcomes stated in part 3;
- the economic or social impact the project will have on the region;
- the public interest and the welfare of people in the region;
- any other relevant matter.

Clause 34 states that the process for releasing unallocated water from the strategic reserve is the process stated in—

- *Water Regulation 2016*, part 2, division 2, subdivision 2 apply if the release is for a State purpose; or
- the water management protocol if the release is to an eligible person for a project for the economic or social benefit of Aboriginal people or Torres Strait Islanders.

Clause 35 states that a water entitlement granted from a strategic reserve for a coordinated project or a project of regional significance expires when the project ends. When the water entitlement expires, the volume of water granted under the entitlement returns to the strategic reserve.

Unallocated water granted from the strategic reserve must only be granted as a water licence.

General reserve

Clause 32 states that unallocated water held as a general reserve may be granted for any purpose.

Clause 34 states that the process for releasing unallocated water from the general reserve is the process stated in the *Water Regulation 2016*, part 2, division 2, subdivision 2. Unallocated water granted from the general reserve can be granted as a water allocation or a water licence.

Part 9 Converting water licences to water allocations to take unsupplemented water

Clauses 36 to 45 state the arrangements and process for converting, under a water entitlement notice, water licences to water allocations. This part applies if a water entitlement notice for this plan provides for a water licence to take unsupplemented water from the Endeavour water management area to be converted under section 146 of the Act to a water allocation (a new water allocation) to take unsupplemented water.

Clauses 38 to 45 state what particular attributes of the new water allocation must include, and how these attributes are determined.

Clause 38 states that the **location** from which water may be taken under the new water allocation must be a water allocation zone.

Clause 39 states that the **purpose** stated on the new water allocation must be 'urban' or 'any'.

Clause 40 states that the chief executive must decide the **nominal volume** for the new water allocation based on an assessment of the water taken under the water licence being converted. The assessment must include consideration of the matters stated in section 46 of the *Water Regulation 2016* (the water regulation).

In addition to considering the matters stated in section 46(1)(e) of the water regulation, the chief executive must also have regard to the simulated mean annual diversion in deciding the nominal volume for the water allocation.

The simulated mean annual diversion is—

- the total volume of water simulated to have been taken under the water allocation using the Source Rivers computer program and as if the new water allocation had been in existence for the whole of the simulation period; and
- divided by the number of years in the simulation period.

Clause 41 states that the **maximum rate** for the new water allocation must be—

- the stated volume, if the water licence being converted states the volume of water that may be taken under the licence in a day; or
- if the water licence does not state a volume of water that may be taken under the licence in a day, but states a maximum volume of water, expressed in litres, that may be taken under the licence in a second—the volume, expressed in megalitres, calculated by multiplying the stated maximum volume by 0.0864 and rounded to the nearest 1 decimal point.

Clause 42 states that the **volumetric limit** for the new water allocation must be—

- the stated volume, if the water licence being converted states the volume of water that may be taken under the licence in a water year; or
- if the water licence does not state a volume of water that may be taken under the licence in a water year, but states an area in hectares, that may be irrigated by water taken under the licence—the volume, in megalitres is calculated by multiplying the stated area by 12.

For clause 41(a) and (b), and clause 42(a) and (b), if these do not apply, then the chief executive must decide a maximum rate or volumetric limit considering the matters stated in clause 43.

Clause 43 details all of the matters to be considered by the chief executive. These include—:

- the conditions under which water may be taken under the water licence being converted;
- the volume of water required for the purpose for which water may be taken under the licence;
- the water-taking capacity, under normal operating conditions, of—
 - a pump that relates to an activity authorised under the licence or a related development permit;
 - any other works authorised for taking water under the licence;
- the irrigation or water distribution system related to the pump or other works during the previous period;
- the annual volume of water estimated by the chief executive to have been taken under the licence during the previous period;
- the efficiency of the water use associated with—
 - a pump that relates to an activity authorised under the licence or a related development permit or any other works authorised for taking water under the licence; and
 - the irrigation or water distribution system related to the pump or other works during the previous period;
 - the annual volume of water estimated by the chief executive to have been taken under the licence during the previous period.

For clause 43, *previous period* is defined as— *if the water licence being converted was granted more than 10 years before the commencement of this plan—the period of 10 years immediately before the commencement; or the period that started when the licence was granted and ended on the commencement of this plan.*

Clause 44 states that the chief executive may impose **conditions** if the chief executive is satisfied the condition is necessary to ensure the purpose and outcomes of this plan are achieved.

When deciding the conditions under which water may be taken under the new water allocation the chief executive must consider the existing conditions stated on the water licence being converted.

Clause 45 states that there are two **water allocation groups** for this plan and a water allocation group must be stated on a water allocation. All water allocations must belong to either water allocation group class 1 or water allocation group class 2.

Part 10 Water licences

Division 1 General

Division 1 clauses 46 to 48 state the general provisions for accepting, dealing with, and deciding particular water licence applications or applications for a seasonal water assignment of all or part of a water licence.

Clause 46 states that for section 43(2)(j) of the Act, the chief executive must not accept an application for a water licence made under section 107 of the Act unless—

- it is an application for a water licence to take water for stock purposes or domestic purposes; or
- an application for a water licence to interfere with water made under division 2 of this plan.

Clause 47 states the means by which the chief executive may decide to grant an application to relocate a water licence or a seasonal water assignment of a water licence if—

- for a water licence relocation or a seasonal water assignment of a water licence located within a water licence zone, the relocation or seasonal water assignment is to another location within the same zone; or
- for a seasonal water assignment of a water licence located not within a water licence zone, the seasonal water assignment is to another location not within a water licence zone; and
- the chief executive is satisfied the dealing is permitted in accordance with the rules under the water management protocol.

Clause 48 states the dealings with water licences which if granted, would be inconsistent with this plan.

These dealings are inconsistent with this plan if granting the application would—

- increase the amount of water that may be taken under the licence; or
- increase the rate at which water may be taken under the licence; or
- change the location of taking or interfering with water under the licence; or
- increase or change the interference with water under the licence.

For clause 48, if the application for a dealing with a water licence, is not inconsistent with this plan, if the application relates to a water licence to take water granted from the Cape York Peninsula Heritage reserve, or is permitted under the water management protocol.

Division 2 Applications for water licences to interfere with the flow of water in a watercourse

Division 2 clauses 49 to 54 state the processes for dealing with, and deciding applications for, a water licence to interfere with the flow of water in a watercourse.

Clause 49 does not limit the matters the chief executive may consider when deciding an application made under this division.

Clause 50 states the matters the chief executive must consider when deciding an application made under clauses 52 to 54 about the impact the proposed interference may have on—

- in-stream water levels; and
- the natural movement of sediment; and
- the bed and banks of the watercourse; and
- riparian vegetation; and
- habitats for native plants and animals; and
- the movement of fish and other aquatic species; and
- the cultural and environmental values of the watercourse.

Clause 51 states that a water licence may be granted only if the proposed interference—

- does not interfere with the flow of water—
 - into or from a lake or waterhole; or
 - in or from a spring; or
- is for the purpose—
 - of storing water for stock purposes or domestic purposes;
 - of providing a pumping pool to enable water to be taken under a water entitlement;
 - of providing improved security for town water supplies taken under an authorisation;
 - if the proposed interference relates to the release of unallocated water—for which the water is released;
 - of storing or interfering with water for a purpose not related to the taking of water under a water entitlement, for example community landscaping, retaining water for flood mitigation purposes or storing water for a micro-hydroelectric power scheme.

Clause 52 deals with an application for a water licence to interfere with the flow of water in a watercourse for stock purposes or domestic purposes. In deciding the application, the chief executive must consider—

- existing water supplies for stock purposes or domestic purposes on land to which the application relates, including, for example, existing weirs, underground water and any storages for taking overland flow water; and
- the availability of water at the proposed storage site; and
- the matters under clause 50.

Also, the chief executive must ensure the proposed storage capacity authorised under the water licence is not greater than—

- the storage capacity that is necessary to store water taken under a water entitlement for stock purposes or domestic purposes having regard to the existing water supplies mentioned in subsection for stock purposes or domestic purposes on land to which the application relates, including, for example, existing weirs, underground water and storage for taking overland flow water;

- the storage capacity for a water licence to interfere with the flow of water in a watercourse in the Endeavour catchment, Jeannie catchment or Normanby catchment is not greater than 20ML; or
- the storage capacity for a water licence to interfere with the flow of water in a watercourse for all other catchments except the Endeavour catchment, Jeannie catchment or Normanby catchment is not greater than 250ML.

Clause 53 deals with an application for a water licence to interfere with the flow of water in a watercourse for a pumping pool. In deciding the application, the chief executive must consider the impact the proposed interference may have on the matters under clause 50.

Also, the chief executive must ensure the proposed storage capacity allowed under the water licence is not greater than—

- the storage capacity for a water licence to interfere with the flow of water in a watercourse in the Endeavour catchment is not greater than 2ML; or
- the storage capacity for a water licence to interfere with the flow of water in a watercourse for all other catchments except the Endeavour catchment is not greater than 20ML.

Clause 54 deals with an application for a water licence to interfere with the flow of water in a watercourse to improve security for town water supply. The chief executive may grant the application if the chief executive is satisfied that—

- appropriate strategies to manage demand for water and drought are in place; and
- there is a need for an increased reliability of the water supply;

Clause 55 applies if the proposed interference with water relates to the release of unallocated water. The interference must not be greater than is necessary for the purpose for which the unallocated water is granted.

Division 3 Water licences authorising particular existing activities

Clause 56 states the process for granting a water licence to take surface water or underground water if a water entitlement notice for this plan provides for the granting of a water licence. For section 116(1) of the Act, the chief executive must decide to grant the water licence.

Division 4 Contents of water licences

Clauses 57 to 64 state the contents that a water licence to take water must state, and how those contents are determined.

Division 4 clause 57 states that this division applies to—

- a water licence to take water that is granted by the chief executive; or
- a water licence to take water that is amended under section 133 of the Act for consistency with this plan.

Clause 58 states particular words and phrases used under this division and their meaning.

Clause 59 states the required **contents** of a water licence to take water. The required contents for each particular type of licence managed under this plan are detailed below. Note the purpose *CYPHA* is an abbreviation for *Cape York Peninsula Heritage Area*.

If the water licence is to take water from a watercourse, lake or spring, the water licence must state—

- one of the following as the purpose for which the water may be taken under the licence—
 - CYPHA;
 - stock and domestic;
 - relief;
 - urban;
 - any;
- for a licence with a stated purpose of ‘stock and domestic’, ‘urban’ or ‘any’—the maximum rate for the licence; and
- the volumetric limit for the licence; and
- the conditions, if any, for the licence.

If the water licence is to take underground water, but is not a water licence for mine dewatering, the water licence must state—

- one of the following as the purpose for which water may be taken under the licence—
 - CYPHA;
 - urban;
 - any; and
- the volumetric limit for the licence; and
- the conditions, if any, for the licence.

If the water licence is to take overland flow water, the water licence must state—

- one of the following as the purpose for which water may be taken under the licence—
 - CYPHA;
 - urban;
 - any;
- at least 1 of the following—
 - the maximum rate for the licence;
 - the maximum storage capacity of works that may be used to store water taken under the licence;
 - the volumetric limit for the licence; and
- the conditions, if any, for the licence.

Clause 60 states that for a water licence being amended under this plan, the **purpose** stated on the water licence must be—

- if the purpose stated on the pre-amended licence is ‘stock or domestic’, ‘relief’ or ‘urban’—the stated purpose;
- if the chief executive is satisfied that water taken under the licence is used for a relief purpose—‘relief’; or
- otherwise—‘any’.

Water taken under a water licence is used for a relift purpose if the water is—

- used to replenish the water in a watercourse, lake or spring; and
- to be taken from the watercourse, lake or spring under another authorisation.

Clause 61 states that the **maximum rate** for a water licence being amended must be—

- the stated volume, if the water licence being converted states the volume of water that may be taken under the licence in a day; or
- if the water licence does not state a volume of water that may be taken under the licence in a day, but states a maximum volume of water, expressed in litres, that may be taken under the licence in a second—the volume, expressed in megalitres, calculated by multiplying the stated maximum volume by 0.0864 and rounded to the nearest 1 decimal point; or

Clause 62 states that the **volumetric limit** for the water licence being amended must be—

- the stated volume if the water licence being converted states the volume of water that may be taken under the licence in a water year; or
- if the water licence does not state a volume of water that may be taken under the licence in a water year, but states an area in hectares, that may be irrigated by water taken under the licence—the volume, in megalitres is calculated by multiplying the stated area by 12.

For water licences being amended to state a maximum rate and a volumetric limit and clause 61(a)(i) and (ii) and clause 62(a)(i) and (ii) do not apply, the chief executive must consider the matters listed under clause 63 to decide a maximum rate or volumetric limit.

Clause 63 outlines the matters the chief executive must consider when deciding a maximum rate or volumetric limit under clause 61(a)(iii) and 61(b) and clause 62(a)(iii) and 62(b) This includes—

- the type of licence being amended or granted;
- the conditions under which water may be taken;
- the volume of water required for the purpose for which water may be taken;
- the water-taking capacity, under normal operating conditions—
 - for a water licence being granted— of relevant works that relate to an activity authorised under the licence; and
 - for a water licence being amended or granted— of any other works authorised for taking water under section 28(1)(c) or (d); and
- the annual volume of water estimated by the chief executive to have been taken during the previous period;
- the efficiency of the water use associated with—
 - the pump or other works mentioned in 63(1)(d) and (e)

Clause 64 states the required **contents** of a water licence to interfere with water. The required contents for each particular type of licence managed under this plan are detailed below.

- the maximum volume of water that may be stored under the licence; and
- the maximum height of a structure used to store water under the licence at the full supply level for the structure; and
- the conditions, if any, for the licence, including, for example—
 - a pass flow condition; and
 - a condition requiring outlet works to be available and maintained at all times sufficient for the pass flow condition; and
 - a condition requiring a bywash or spillway.

Clause 65 states the types of **conditions** which must be stated on a water licence to take water, or to interfere with water for the storage of water, or for another purpose not related to the storing of water. This clause also defines the term pass flow condition.

For conditions to be stated on a water licence to take water or to interfere with water for a purpose of not impounding water, the chief executive may impose on the water licence any condition the chief executive is satisfied is necessary to ensure the purposes and water plan outcomes of this plan are achieved. When deciding the conditions under which water may be taken under a water licence being amended, the chief executive must consider the conditions stated on the pre-amended licence.

For deciding the conditions to be stated on a water licence to interfere with water in a watercourse for a purpose of impounding water, the chief executive must consider all of the following matters—

- the size of the impoundment;
- the catchment size above the impoundment;
- the timing, extent and volume of inflows into the impoundment;
- existing downstream entitlement holders;
- downstream water requirements for environmental, cultural and social needs;
- if a development permit was granted—the conditions of the permit.

Part 11 Implementing and amending this plan

Clause 66 states that for section 43(2)(l) of the Act, a water management protocol must be prepared for the plan area. The water management protocol must address the following matters for the plan area—

- the volumes of unallocated water reserved for stated purposes or stated locations;
- the process for releasing unallocated water—
 - held as Cape York Peninsula Heritage Area reserve; and
 - for water being released to an eligible person for a project for the economic or social benefit of Aboriginal people or Torres Strait Islanders—held as a strategic reserve;
- the water allocation dealing rules;
- the water sharing rules;
- for section 126 of the Act, the dealing rules to amend a water licence to change the location of taking water that are permitted;

- the criteria and processes for deciding an application for a dealing with a water licence to change the location for taking water under the water licence;
- the arrangements and process for authorising the continued taking of overland flow water after the commencement of the plan.

Clause 67 states the amendments that can be made to this plan without public consultation. The following amendments may be made to this plan without consultation—

- an amendment to increase the volume of water held as reserves under section 32 by an amount that is not more than the volume of water that has returned to the State;
- an amendment or addition of a performance indicator or environmental flow objective if the amendment or addition does not adversely affect—
 - the provision of water for the environment;
 - the achievement of the water plan outcomes;
 - the water allocation security objectives;
- an amendment or addition of a water allocation security objective if the amendment or addition does not adversely affect—
 - the achievement of the water plan outcomes; or
 - the environmental flow objectives;
- an amendment or addition of a node;
- an amendment to adjust the boundaries of the following areas if more accurate information about the boundaries, or hydrological characteristics, of the plan area become available—
 - the plan area;
 - a catchment;
 - a water management area;
 - an underground water management area;
- an amendment to change the period within which a measure for achieving a stated water plan outcome is to be achieved;
- an amendment to remove a provision of this plan that no longer has effect;
- an amendment to include another entity as an eligible person under section 32(6).

Schedule 1 Plan area and node locations

Part 1 shows the map of the plan area and the location of nodes for the plan.

Part 2 describes the location of the nodes in part 1.

Schedule 2 Catchments

Schedule 2 shows the map of the catchments for the plan area. Each catchment is identified on the map by its name.

Schedule 3 Water management area

Schedule 3 shows the map of the water management areas for the plan area. Each water management area is identified on the map by its name.

Schedule 4 Underground water management areas

Schedule 4 shows the map of the underground water management areas for the plan area. Each underground water management area is identified on the map by its name.

Schedule 5 Water allocation zones

Schedule 5 shows the map of the water allocation zones for the plan area. Each water allocation zone is identified on the map by its name.

Schedule 6 Water licence zones

Schedule 6 shows the map of the water licence zones for the plan area. Each water licence zone is identified on the map by its name. Part 1 shows the underground water licence zones for this plan. Part 2 shows the surface water licence zones for this plan.

Schedule 7 Environmental flow objectives and performance indicators

Schedule 7 states the environmental flow objectives for this plan.

Schedule 8 Maximum rates for pump sizes

Schedule 8 states the maximum rates (megalitres per day) in column 2 for stated pump sizes (in millimetres) in column 1.

Schedule 9 Dictionary

Schedule 9 contains the dictionary, which contains the meaning for particular words and phrases used in this plan.