

**Mitchell**  
resource operations plan  
explanatory notes

November 2009

Prepared by:

Water Allocation and Planning

Department of Environment and Resource Management

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## General outline

The purpose of these notes is to provide a 'plain English' explanation of the Mitchell Resource Operations Plan 2009. The Mitchell Resource Operations Plan 2009 is referred to as 'the plan' within the explanatory notes document.

These notes are intended to assist the reader in understanding the rules and provisions of the plan by providing a simple explanation and background information on each of the chapters of the plan. The notes should be read in conjunction with the plan as the detail is contained in the plan itself.

### Title

Mitchell Resource Operations Plan 2009

### Authorising law

Chapter 2, Part 4, Division 1 of the *Water Act 2000*

### Policy objectives of the legislation

Section 95 of the *Water Act 2000* (the Act) provides for the chief executive to prepare a resource operations plan to implement a water resource plan. The Mitchell Resource Operations Plan 2009 implements the *Water Resource (Mitchell) Plan 2007*. The resource operations plan sets out the rules and requirements that guide the day-to-day management of authorisations to achieve the objectives of the *Water Resource (Mitchell) Plan 2007*.

### Legislation consistent with policy objectives of authorising law

The plan is consistent with the policy objectives of the Act and the *Water Resource (Mitchell) Plan 2007*.

### Estimated cost for Government

Funding for the development and implementation of the resource operations plan has been allocated to the Department of Environment and Resource Management under the Water Reform Continuity of Supply funds allocation.

### Consistency with fundamental legislative principles

The resource operations plan is consistent with fundamental legislative principles.

### Consultation

Government departments and agencies affected by the changes have been consulted regarding the plan. 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 Resource Operations Plan Consultation Report.

## Chapter 1 Preliminary

Chapter 1 provides preliminary information about the plan.

Section 1 declares that the plan is known as the Mitchell Resource Operations Plan 2009.

Section 2 states that all rules and requirements of the plan commence on the first business day after the plan has been notified in the Queensland Government Gazette.

Section 3 states that the Mitchell Resource Operations Plan 2009 implements the *Water Resource (Mitchell) Plan 2007*. The plan sets out the rules and requirements that guide the day-to-day management of authorisations to achieve the outcomes of the *Water Resource (Mitchell) Plan 2007*.

Section 4 defines the area to which the plan applies. The plan area corresponds to the Mitchell River catchment. The plan area boundary can be found in Attachment 1.

Section 5 advises that the dictionary can be found in Attachment 2 of the plan. Terms that are defined in the dictionaries of the *Water Resource (Mitchell) Plan 2007* or the *Water Act 2000* are not defined in the plan.

Section 6 states that 3 seasonal assignment zones have been established within the plan area as shown on the map in Attachment 3 of the plan. These relocation zones specify the locations for seasonal water trading within particular reaches of the upper Mitchell catchment and provide geographic limits for trading.

Section 7 advises that the department holds digital maps of the plan area and all the zones relevant to the plan. These maps may be either enlarged or reduced to show detail of any particular boundary. The digital information can be inspected at any of the department's offices.

Section 8 states that the plan applies to water in watercourses, lakes, springs and overland flow. The plan does not apply to springs connected to artesian water covered by the *Water Resource (Great Artesian Basin) Plan 2006*, nor does it apply to springs connected to subartesian water covered by the *Water Resource (Great Artesian Basin) Plan 2006*.

Section 9 states that all water entitlements in the plan area must be metered in accordance with the standard approved by the chief executive. Metering of all volumetric water entitlements will occur within the plan area.

Metering water use is fundamental to responsible management of the State's water resources and is legislated under the *Water Act 2000*. Metering provides data for water management activities including the demonstration of compliance with management rules.

Section 10 states that all water resource monitoring and data collection requirements in this plan must be conducted in accordance with the department's Water Monitoring Data Collection Standard.

The Water Monitoring Data Collection Standard is maintained on the department's website. The standard will be updated as required to reflect industry best practice data collection standards.

Section 11 states that water resource monitoring data must be transferred and published in accordance with the department's Water Monitoring Data Reporting Standard.

The Water Monitoring Data Reporting Standard is maintained on the department's website. The standard will be updated as required to reflect industry best practice reporting standards.

Section 15 states that the chief executive must implement the requirements of this plan as soon as is practically possible but no later than five years from the commencement of the plan.

Section 16 specifies the manner in which this plan seeks to sustainably manage water resources in the plan area, as required under Section 98(1)(e) of the *Water Act 2000*.

Section 17 specifies the manner in which the plan seeks to achieve the general outcomes, general ecological outcomes and specific ecological outcomes set out in the *Water Resource (Mitchell) Plan 2007*, as required under Section 98(1)(g) of the *Water Act 2000*. Attachment 5 details how the rules and requirements of this plan are linked to the outcomes of the *Water Resource (Mitchell) Plan 2007*.

## Chapter 2 Unallocated water

This Chapter deals with the availability and release of unallocated water as per the requirements of the *Water Resource (Mitchell) Plan 2007*. The plan identifies over 70 000 megalitres (ML) of unallocated water that may be made available in the plan area. Unallocated water is reserved for general and specific purposes.

Section 22 advises that the chief executive may develop and maintain a register to record the volumes of water granted, and remaining volumes of water available for future granting in the Mitchell plan area. The register is to be updated after the granting of each new entitlement.

Section 23 states that where an application to use unallocated water for irrigation is submitted, information about the suitability of the land to which the application applies must also be included with the application. The chief executive will undertake a preliminary assessment of the information supplied. Where the chief executive determines that the land is unsuitable for irrigation, applications to use unallocated water for irrigation may not be successful. This spares landholders the expense of preparing a detailed land and water management plan if the probability of being granted unallocated water is limited.

Section 24 states that any person granted a water licence and proposing to use unallocated water for irrigation must have an approved land and water management plan for the land on which the water is to be used before the water can be taken. This requirement is stipulated in Section 73(5) of the *Water Act 2000*.

### Part 1 Unallocated water reserves

Section 25 reserves unallocated water that has been identified through the water resource planning process in the plan area in the following reserves:

- Strategic reserve
- General reserve
- Indigenous reserve.

The Strategic reserve sets aside unallocated water for State purposes. Projects of regional and State significance are deemed to be State purposes. As a requirement of the *Cape York Peninsula Heritage Act 2007*, the Indigenous reserve sets aside water to help Indigenous communities achieve their social and economic aspirations.

The volume of water available in each reserve, and the region from which the unallocated water will be made available, is shown in table 1.

In addition to water that may be granted from the unallocated water reserves, permits may be issued for water required for short-term projects such as the construction and maintenance of roads and bridges. A person may apply for a water permit for taking water under Chapter 2 Part 6 Division 4 of the *Water Act 2000*.

### Part 2 Granting unallocated water from reserves

Section 26 states that all water granted from unallocated water reserves will be granted as licences.

Section 27 deals with the process for granting unallocated water and consideration for the chief executive in granting unallocated water.

The process for granting unallocated water is detailed in the *Water Regulation 2002*. The *Water Regulation 2002* details the processes for dealing with unallocated water and whether the release of the unallocated water will be market-based (public tender or auction) or without competition. Where unallocated water is to be made available either through a public tender or auction, the chief executive will publish a public notice in newspapers circulated in the locality where the water will be made available. The public notice will detail where an interested person may obtain more

information relating to the tender or auction, including the amount of water available, the purchase price and the conditions of sale.

This section requires that when deciding an application for unallocated water, the chief executive must take into consideration the effect on the cultural values and economic and social wellbeing of local Indigenous communities.

### **Division 1 Terms and conditions for water licences**

Sections 29 to 34 detail the terms and conditions for granting new water licences.

Section 29 applies to water licences to take unsupplemented water from a watercourse, lake or spring. As stipulated in the *Water Resource (Mitchell) Plan 2007*, the water licence must state the purpose for which water may be taken, the maximum rate at which the water may be taken, the daily volumetric limit and the annual volumetric limit. The water licence may state other conditions such as a flow condition and a condition for storing water.

Section 30 applies to water licences to take overland flow water. The water licence must state the purpose for which water may be taken. The licence must also state at least one of the following conditions:

- the maximum stored volume
- the maximum rate at which the water may be taken
- the daily volumetric limit
- the annual volumetric limit
- the mean annual volume for the licence.

The water licence may state other conditions such as a flow condition and a condition for storing water.

Section 31 applies to water licences granted to take unallocated water from the Chillagoe Groundwater Management Area (which are defined in schedule 2 of the *Water Resource (Mitchell) Plan 2007*). For the Chillagoe Groundwater Management Area, unlicensed water taking is prohibited unless the water taken is for stock and domestic purposes, or related to the monitoring and controlling of water quality. Where a licence is granted to take groundwater within these areas, the licence must state a purpose and, except where the purpose is 'dewatering', an annual volumetric limit.

Section 32 states that water licences granted from the Strategic reserve for State purposes for projects of regional or state significance must include a condition that stipulates that the right to take water returns to the State at the completion of the project. For example, a mining, infrastructure or industrial project declared as significant by the State may require a licence to take water during the development phase. When this phase ends, the licence to take water will expire.

### **Chapter 3 Amending existing authorisations**

Section 43 states that this chapter applies to sections 44 to 53 of the Water Resource (Mitchell) Plan 2007, which stipulate the terms and conditions to appear on licences being granted or amended under this section.

Section 44 states that water licences listed in Attachment 5 and existing licences which are inconsistent with the *Water Resource (Mitchell) Plan 2007* must be amended to state a purpose, a maximum rate, a daily volumetric limit, an annual volumetric limit, and any other appropriate conditions. Licences must be granted within 120 business days from the commencement of this plan.

## Chapter 4 Dealing with water licence applications

Sections 52 to 63 set out how water licence applications will be dealt with.

Section 52 applies to all water licence applications for taking water from or interfering with water in a watercourse, lake or spring. This includes applications which seek to:

- increase the annual volumetric limit for a water licence
- increase interference with the water
- increase the maximum rate for taking water
- change the location from which water may be taken.

The provisions of this chapter apply to all applications, including applications previously made where no decision has been made.

This chapter does not apply to applications which seek to:

- reinstate an expired water licence
- amalgamate water licences
- subdivide a water licence
- dispose of part of the land to which a water licence attaches.

Section 53 states that the chief executive must refuse all applications to which this chapter applies, unless this chapter explicitly provides for granting the application.

Section 54 states that applications seeking to amend an existing licence to increase the maximum rate of take of water will only be dealt with where there is a development permit associated with the water licence. This provision also applies where a development permit authorises other works which have a maximum rate of take of greater than that which is stated on the licence.

This allows the chief executive to grant an application for increasing the maximum rate of take if the change would make it consistent with the capabilities specified on an existing development permit. For example, a licence may state a rate of take, but an existing development permit specifies a pump size which is capable of exceeding the rate of take stated on the licence.

The chief executive may determine a new rate of take if the existing development permit specifies works which are capable of taking water at a greater rate than the rate specified in schedule 6 of the *Water Resource (Mitchell) Plan 2007* or on the water licence.

Section 55 states that applications seeking to increase the daily volumetric limit specified on an existing water licence may be approved if the change would make the licence consistent with the capabilities specified on a development permit. This provision also applies where a development permit authorises other works which have a daily volumetric capability greater than that which is stated on the licence. For example, a licence may state a daily volumetric limit, but an existing development permit specifies a pump size which is capable of exceeding the daily volumetric limit stated on the licence.

The chief executive must refuse applications to increase the daily volumetric limit if the volumetric limit applied for would exceed the capabilities of any previously authorised pump or works.

The chief executive may determine a new daily volumetric limit if the development permit specifies works which are capable of a daily volumetric limit that is greater than the limit specified in schedule 6 of the *Water Resource (Mitchell) Plan 2007* or on the water licence.

Section 56 applies to applications to take water for stock and domestic purposes from a watercourse, lake or spring, where there is no other suitable alternative water supply. This section allows new and existing licence applications to be processed if they are for water to be used for stock purposes or domestic purposes.

## Part 1 Seasonal water assignment under water licences

This part specifies the rules that apply when water licence holders enter into arrangements to make a seasonal water assignment.

A seasonal water assignment means the assignment by the licence holder, for a water year, of all or part of the water that may be taken under the water licence. As a seasonal water assignment applies to the current water year only, an application for a seasonal water assignment can not be made prior to the commencement of the water year.

Section 57 states that this part applies to water licences located in seasonal assignment zones 1, 2 or 3.

Section 58 sets out the rules which must be met in order for the chief executive to grant an application to seasonally assign water under a water licence.

For a licence to be eligible for seasonal assignment it must state elements of a water licence to take unsupplemented surface water in accordance with section 45 of the *Water Resource (Mitchell) Plan 2007* and must be a metered entitlement in accordance with the *Water Regulation 2002*.

The chief executive may grant an application for the seasonal assignment of water under a water licence only where:

- there is no requirement for water to be stored in particular works
- the volume of seasonal assignment water is no greater than the unused annual volumetric limit that may be taken under the licence
- the daily volumetric limit of seasonal assignment water is in proportion to the share of the unused volume being seasonally assigned
- the assignment of water under a licence, which is not subject to a flow condition, does not result in the maximum annual volumetric limit for the zone to which water is being seasonally assigned being exceeded.

## Part 2 Granting water licences for taking overland flow water

This part outlines the process for granting water licences for taking new overland flow water and to replace the existing authority under section 55(3) of the *Water Resource (Mitchell) Plan 2007*.

Sections 60 to 62 set out the format for how these applications are processed, where further professional advice will be sought from the applicant, and the contents and conditions which are required.

Section 60 states that the chief executive may at any time replace the existing authority for the take of overland flow water given under section 55(3) of the *Water Resource (Mitchell) Plan 2007* by granting a water licence. Where a water licence has already been granted, the chief executive may amend the licence at any time.

Before a licence is granted or amended, the chief executive must issue a notice to the owner of the land identifying the existing works that take overland flow water, stating whether a licence to take overland flow water using those works will be granted or amended, and requesting any additional information that may be required. Additional information includes information about the historical and current use of water from the works specified, and the purpose for which the water is used.

Other additional information, such as a certified report about the works, may also be required.

In making a decision about granting or amending a licence, the chief executive must consider all relevant information about the works, including the certified report, if one has been prepared.

Section 61 provides the requirements for owners in preparing a certified report.

Where the chief executive has issued a notice to the owner requesting a certified report about the take of overland flow water using the works, the certified report must be prepared in accordance with the standards and requirements set out in the notice provided by the chief executive.

The purpose of a certified report is to provide the chief executive with an accurate description of the infrastructure, its operation and its ability to take overland flow water. The report may need to be verified and signed by a Registered Professional Engineer.

Section 62 states that a water licence issued to take overland flow water must state a purpose of either 'rural' or 'any', and at least one of the following terms and conditions:

- the maximum stored volume
- the maximum rate at which the water may be taken under the licence
- the daily volumetric limit for the licence
- the annual volumetric limit for the licence
- the mean annual volume for the licence.

A licence may also include other conditions, such as flow conditions or conditions for storing the water taken under the licence.

### **Part 3 Water licences used in conjunction with overland flow works**

Section 63 applies where the chief executive receives an application to amend a water licence which seeks to change a condition that requires water taken under the licence to be stored in works that also allow the take of overland flow.

A water licence for the take of water from a watercourse may have a condition linking the licence to that storage. Where the same storage also captures overland flow water, a change to this condition may affect a change in the capability to take overland flow water. This could result in an increase in the amount of water taken as overland flow, which is prohibited under section 55(4)(b) of the *Water Resource (Mitchell) Plan 2007*.

Where an application to separate a licence from the storage is successful, a new licence will be issued limiting the amount of overland flow water that may be taken to a level which is consistent with the amount that had been taken historically. This enables compliance with section 56 of the *Water Resource (Mitchell) Plan 2007* and separation of the existing water licence from the storage.

## Chapter 5 Monitoring and Reporting

This chapter outlines the monitoring and reporting requirements for the implementation of the plan. The chief executive must assess the data measured, collected and recorded to indicate if the outcomes specified in the *Water Resource (Mitchell) Plan 2007* are being achieved.

Section 70 states that water monitoring information to be measured or collected and kept publicly available includes:

- water quantity
- water taken.

Water monitoring information to be collected and kept publicly available includes:

- future consumptive demands for water
- water use efficiency.

The above information may be used by the chief executive to support water resource assessment and reporting.

Section 71 sets out the natural ecosystem information to be collected and kept publicly available, which includes information on:

- ecological assets linked to the ecological outcomes in the *Water Resource (Mitchell) Plan 2007*
- the critical water requirements for these ecological assets.

Section 72 enables the chief executive to determine if the strategies of the *Water Resource (Mitchell) Plan 2007* have been successful in achieving its general, general ecological, and specific ecological outcomes. The information will contribute to an improved information base for future water planning within the Mitchell water resource plan area.

Where it is determined that the general, general ecological, or specific ecological outcomes in the *Water Resource (Mitchell) Plan 2007* are not being achieved, the Minister may consider amending the *Water Resource (Mitchell) Plan 2007*.

## **Chapter 6 Amendments to the resource operations plan**

This chapter states the types of amendments that can be made to the plan under the *Water Act 2000* (the Act) and whether the amendments need to be publicly notified.

Section 106(b) of the Act provides for amendments to be made to a resource operations plan where the amendment is stated in the resource operations plan.

Section 80 states that an amendment commences either on the date the Queensland Government Gazette is published or on another date which is specified in the Queensland Government Gazette.

### **Part 1 Amendments not requiring public notification**

Sections 81 to 84 detail the amendments that do not require public notification and advertising.

Section 82 states that an amendment that is necessary as a consequence of an amendment to the *Water Resource (Mitchell) Plan 2007* may be made to this resource operations plan.

Section 83 states that an amendment may be made to chapter 5 of this plan to improve monitoring requirements. Amendments made to monitoring requirements may include increasing or incorporating additional monitoring requirements or making changes to water quality indicators.

Section 84 states that an amendment may be made which changes the limits for seasonal water assignments in the upper Mitchell River. Such amendments may be made as a result of unallocated water being granted in the area or the availability of new information about the availability of water in the area.

### **Part 2 Amendment requiring public notification**

This part details the amendments that will require public notification and advertising.

Section 85 states that the chief executive may amend the plan to include additional requirements for managing water in the plan area.

Some amendments that may occur include, but are not limited to, seasonal water assignment rules.