

## **Provisions of the Whitsunday Resource Operations Plan taken to be included in the Water Resource (Whitsunday) Plan 2010 –ss. 1259 and 1264 of the *Water Act 2000*.**

**Note:** This document includes a number of provisions that were previously located in the Whitsunday Resource Operations Plan 2011. In accordance with section 1259(2)(e) of the *Water Act 2000*<sup>1</sup>, the provisions contained in this document, including any associated attachments, are to be read as being provisions of the Water Resource (Whitsunday) Plan 2010 (water resource plan). Despite not currently being located in the water resource plan, these provisions carry the same authority and are subject to the same legislative requirements as the provisions contained in the water resource plan. The provisions contained in this document have retained the same section numbering as that contained in the superseded Whitsunday Resource Operations Plan 2011. However, the section numbering will change when incorporated into the water resource plan by the Office of Queensland Parliamentary Counsel.

For clarity, cross references to sections in the *Water Act 2000*, Water Regulation 2016 and Water Resource (Whitsunday) Plan 2010 have been updated. Furthermore, cross references to sections in the new planning instruments, which came into effect on 6 December 2016, have also been updated.

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<sup>1</sup> On 6 December 2016, amendments to the *Water Act 2000*, made by the *Water Reform and Other Legislation Amendment Act 2014*, came into effect.

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# Chapter 1 Preliminary

## 7 Water management areas

The water management area for this plan is shown on the map in attachment 2(a).

## 8 Zones

- (1) Each zone is shown on the map in attachment 2(b).
- (2) Each zone includes—
  - (a) each part of a watercourse<sup>2</sup>, lake or spring that lies within the zone; and
  - (b) those sections of tributaries where there is access to flow or pondage from a watercourse or lake within the zone.

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<sup>2</sup> For Proserpine Zone A and Proserpine Zone B, groundwater in an aquifer under the Proserpine River under land adjacent (up to 200 metres either side of the watercourse) to the Proserpine River is declared to be water in the watercourse for the zones. Refer to section 6 of the Water Resource (Whitsunday) Plan 2010 for further clarification regarding groundwater declared to be water in a watercourse for this plan.

# Chapter 7 Dealing with Water Licence Applications

## 176 Scope of chapter 7

- (1) This chapter states the process for dealing with an application for a—
  - (a) water licence to take or interfere with water from a watercourse, lake or spring; and
  - (b) water licence to take groundwater or overland flow water.

## 177 Water licence applications to which this chapter applies

- (1) This chapter applies to each application for a water licence made under section 107 of the *Water Act 2000* if granting the application would have one or more of the following effects on water to which this plan applies—
  - (a) increase the annual volume of the water allowed to be taken under authorisations;
  - (b) increase the nominal entitlement for taking water under the licence, if any;
  - (c) increase the maximum area to be irrigated under authorisations;
  - (d) increase the interference with the water;
  - (e) increase the daily, monthly or quarterly volumetric limit for taking water under the licence, if any;
  - (f) change the location from which water may be taken;
  - (g) increase the maximum rate for taking water; and
  - (h) change the conditions under which the water may be taken.
- (2) This chapter applies even if the application was made before the commencement of this plan.
- (3) This chapter does not apply to—
  - (a) an application made under the following provisions of the—
    - i. *Water Act 2000*—
      - A. section 125—reinstating an expired water licence;
      - B. section 120—amalgamating water licences;
      - C. section 120—subdividing a water licence; and
    - ii. *Water Regulation 2016*—
      - A. section 41—effect of disposal of part of land to which water licence to take water attaches.
  - (b) an application made in accordance with chapter 2 of the water management protocol.

## 178 Applications to be refused

The chief executive must refuse an application to which this chapter applies unless this chapter explicitly provides for granting the application.

## 179 Applications to interfere with the flow of water

- (1) This section applies to the chief executive making a decision about an application to interfere with, or increase the interference with, water in a watercourse, lake or spring.

- (2) The chief executive may accept and decide the application only if the purpose of the proposed interference or increase in interference is—
  - (a) to store water to be taken under an authorisation for stock or domestic purposes;
  - (b) to provide a pumping pool to enable water to be taken under an existing authorisation;
  - (c) to artificially improve or change the course of a watercourse, lake or spring; or
  - (d) to store water for a purpose not related to the taking of water under a water entitlement.
- (3) For subsection (2)(d), examples of the purpose include community landscaping or retaining water for flood mitigation purposes.
- (4) The chief executive may approve the application if—
  - (a) the chief executive is satisfied the proposed interference or increase in interference is necessary for a purpose mentioned in subsection (2); and
  - (b) the proposed storage capacity is no greater than is necessary for the purpose of the proposed interference or increase in interference having regard to—
    - i. the impact the proposed interference or increase in interference may have on the following—
      - A. instream water levels;
      - B. the natural movement of sediment;
      - C. the bed and banks of the watercourse or lake;
      - D. riparian vegetation;
      - E. habitats for native plants and animals;
      - F. the movement of fish and other aquatic species;
      - G. the cultural and ecological values of watercourses, waterholes, lakes or springs; and
    - ii. for a purpose mentioned in subsection (2)(a)—existing water supplies on the property to which the application relates, including existing weirs, groundwater and dams taking overland flow water and the availability of water at the proposed site.
- (5) However, the chief executive must not approve an application for a purpose mentioned in subsection (2)(a), (b) or (d) if the proposed storage capacity is greater than—
  - (a) for an application for a purpose mentioned in subsection (2)(a)—20ML;
  - (b) for an application for a purpose mentioned in subsection (2)(b)—2 ML;
  - (c) for an application for a purpose mentioned in subsection (2)(d)—20 ML.
- (6) In this section pumping pool means a pool of water near a pump in a watercourse, lake or spring that ensures the water level of the watercourse, lake or spring is appropriate to enable the pump to function properly.

## **180 Application to increase the maximum rate at which water may be taken**

- (1) This section applies to an application to amend an existing water licence to increase the maximum rate at which water may be taken.
- (2) The chief executive may grant the application if—
  - (a) the water licence states a nominal entitlement; and
  - (b) there is an existing development permit associated with the water licence; and
  - (c) the maximum rate specified on the existing water licence is less than—
    - i. if there is an existing development permit associated with the water licence that states a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the rate stated in

- schedule 7, column 2 of the Water Resource (Whitsunday) Plan 2010;  
or
    - ii. if there is an existing development permit associated with the water licence that states a pump size other than a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 7, column 2 of the Water Resource (Whitsunday) Plan 2010.
  - (d) where schedule 7 of the Water Resource (Whitsunday) Plan 2010 does not apply—the works authorised by an existing development permit associated with the water licence have the capacity to take water at a rate greater than the maximum rate specified on the existing water licence.
- (3) The chief executive must refuse the application if the maximum rate sought under the application exceeds—
  - (a) if there is an existing development permit associated with the water licence that states a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the rate stated in schedule 7, column 2 of the Water Resource (Whitsunday) Plan 2010;
  - (b) if there is an existing development permit associated with the water licence that states a pump size other than a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 7, column 2 of the Water Resource (Whitsunday) Plan 2010; or
  - (c) the rate at which the works authorised by an existing development permit associated with water licence are capable of taking water.

## 181 Application to increase the daily volumetric limit

- (1) This section applies to an application to amend a water licence to increase the daily volumetric limit.
- (2) The chief executive may grant the application if—
  - (a) the water licence states a nominal entitlement; and
  - (b) there is an existing development permit associated with the water licence; and
  - (c) the daily volumetric limit specified on the existing water licence is less than—
    - i. if there is an existing development permit associated with the water licence that states a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the daily volumetric limit stated in schedule 7, column 3 of the Water Resource (Whitsunday) Plan 2010; or
    - ii. if there is an existing development permit associated with the water licence that states a pump size other than a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the daily volumetric limit decided by the chief executive having regard to the limits stated for similar pump sizes in schedule 7, column 3 of the Water Resource (Whitsunday) Plan 2010.
  - (d) where schedule 7 of the Water Resource (Whitsunday) Plan 2010 does not apply—the works authorised by an existing development permit associated with the water licence
  - (e) have the capacity to take water at a rate greater than the daily volumetric limit specified on the existing water licence.
- (3) The chief executive must refuse the application if the daily volumetric limit applied for exceeds—
  - (a) if there is an existing development permit associated with the water licence that states a pump size mentioned in schedule 7, column 1 of the Water

- Resource (Whitsunday) Plan 2010—the daily volumetric limit stated in schedule 7, column 3 of the Water Resource (Whitsunday) Plan 2010;
- (b) if there is an existing development permit associated with the water licence that states a pump size other than a pump size mentioned in schedule 7, column 1 of the Water Resource (Whitsunday) Plan 2010—the daily volumetric limit decided by the chief executive having regard to the limits stated for similar pump sizes in schedule 7, column 3 of the Water Resource (Whitsunday) Plan 2010; or
  - (c) the maximum volume the works authorised by an existing development permit associated with the water licence are capable of taking in a day at the maximum rate decided.

## **182 Applications to take water for stock or domestic purposes**

- (1) This section applies to an application to take water from a watercourse, lake or spring, where—
  - (a) the application is for the taking of water for stock purposes or domestic purposes; and
  - (b) the location from which water is proposed to be taken is not within any of the zones in attachment 2(b).
- (2) The chief executive may grant the application only if the chief executive is satisfied that—
  - (a) the applicant does not hold another water entitlement to take water for the land to which the application applies;
  - (b) the land to which the application relates does not have access to a suitable alternative water supply, including, but not limited to, a reticulated water supply;
  - (c) there is no unallocated water from which the applicant may obtain a water entitlement; and
  - (d) the plan of survey for the land to which the application applies was registered before the commencement of this plan.
- (3) The chief executive may grant the licence only for stock purposes and domestic purposes.
- (4) Subsection (2) does not limit the matters the chief executive may consider.
- (5) In this section—
  - (a) ‘plan of survey’ is defined in schedule 2 of the Land Title Act 1994.



# Chapter 8 Granting Water Licences for Taking Overland Flow Water

## 194 Scope of chapter 8

For granting a licence under section 116 of the *Water Act 2000*, this chapter states—

- (a) for section 69 of the Water Resource (Whitsunday) Plan 2010—the process for granting or amending a water licence to replace the authority under section 68(3) of the Water Resource (Whitsunday) Plan 2010;
- (b) matters the chief executive must consider;
- (c) conditions the chief executive must include on the licence; and
- (d) requirements for certified reports for an overland flow storage.

## 195 Granting a water licence in accordance with section 69 of the Water Resource (Whitsunday) Plan 2010

- (1) The chief executive may at any time grant a licence for taking overland flow water to replace the authority under section 68 of the Water Resource (Whitsunday) Plan 2010
- (2) Before granting a water licence under subsection (1), the chief executive must issue a notice to the owner of the land—
  - (a) requesting that the owner of the land clearly identify the relevant existing works that take overland flow water;
  - (b) stating that the chief executive intends to grant a water licence for taking overland flow water using the works;
  - (c) requesting additional information including, but not limited to, the pattern of water use from the works based on the water requirements and purpose for which the water is used; and
  - (d) requesting any other information required by the chief executive.
- (3) A notice under subsection (2) may also require the owner of the land to provide, in accordance with section 196, a certified report about the take of overland flow water taken using the works.
- (4) In making a decision about granting a licence under subsection 1, the chief executive must consider—
  - (a) any relevant information available to the chief executive about the works;
  - (b) the certified report about the works; and
  - (c) any other matters the chief executive considers relevant.

## 196 Certified reports for overland flow works

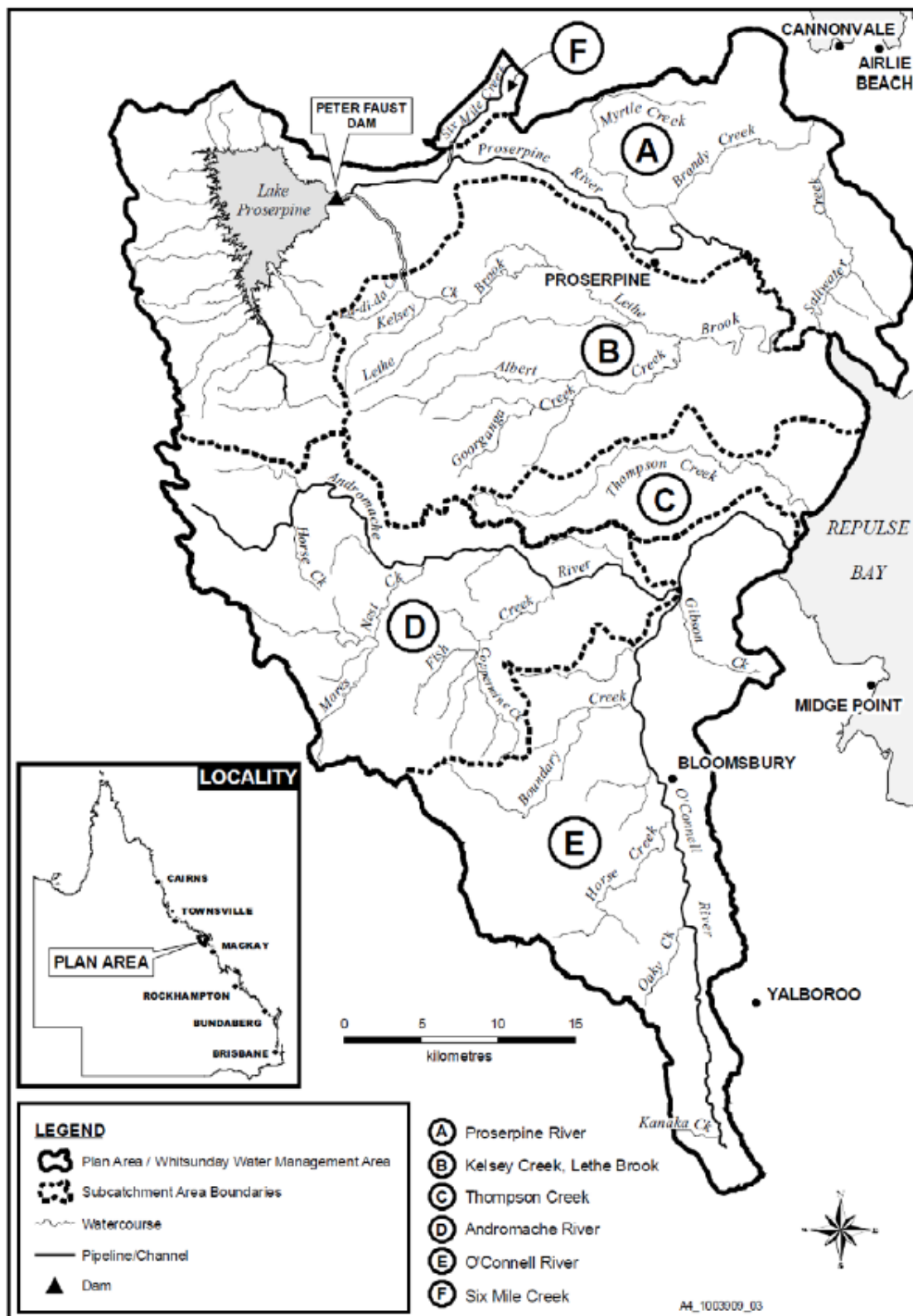
- (1) For the purpose of this chapter, a certified report is a report prepared in accordance with the standards and requirements set out in a notice provided by the chief executive.
- (2) The purpose of the certified report is to provide the chief executive with an accurate representation of—
  - (a) the infrastructure to which the report relates;
  - (b) the operation of the infrastructure; and
  - (c) the ability of the infrastructure to take overland flow water.
- (3) The chief executive may require that the certified report be verified and signed by a registered professional engineer.

## **197 Content and conditions for a water licence to take overland flow water**

A water licence for the taking of overland flow water—

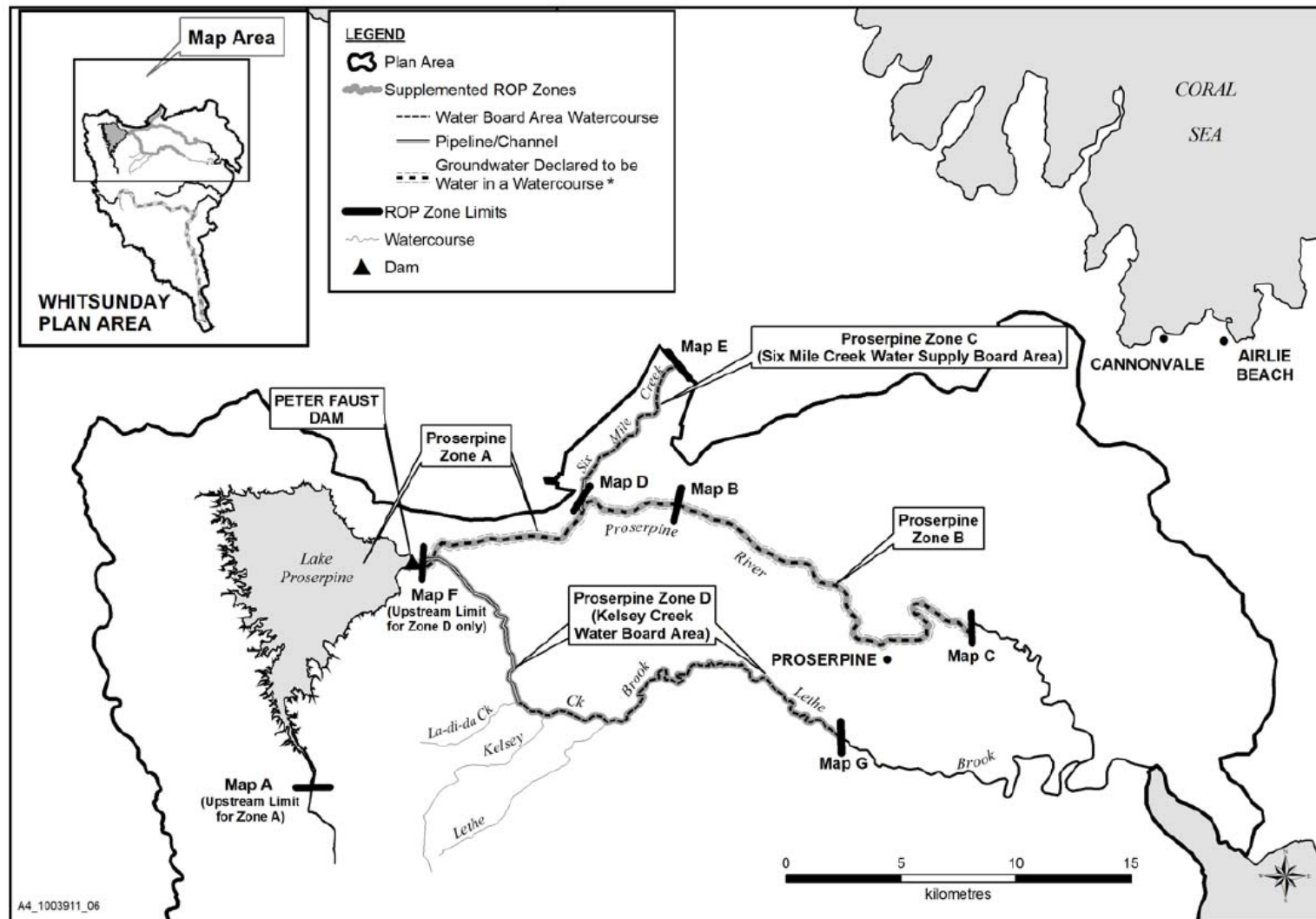
- (a) must state the purpose for which water may be taken under the licence as either—
  - i. rural; or
  - ii. any.
- (b) must state at least one of the following—
  - i. the maximum stored volume;
  - ii. the maximum rate at which the water may be taken under the licence;
  - iii. the daily volumetric limit for the licence;
  - iv. the nominal entitlement;
  - v. the annual volumetric limit for the licence; or
  - vi. the mean annual volume for the licence.
- (c) may state conditions for the licence, including flow conditions and conditions for storing water taken under the licence.

# Attachment 2 (a) Whitsunday Plan Area (showing subcatchments) and Whitsunday Water Management Area



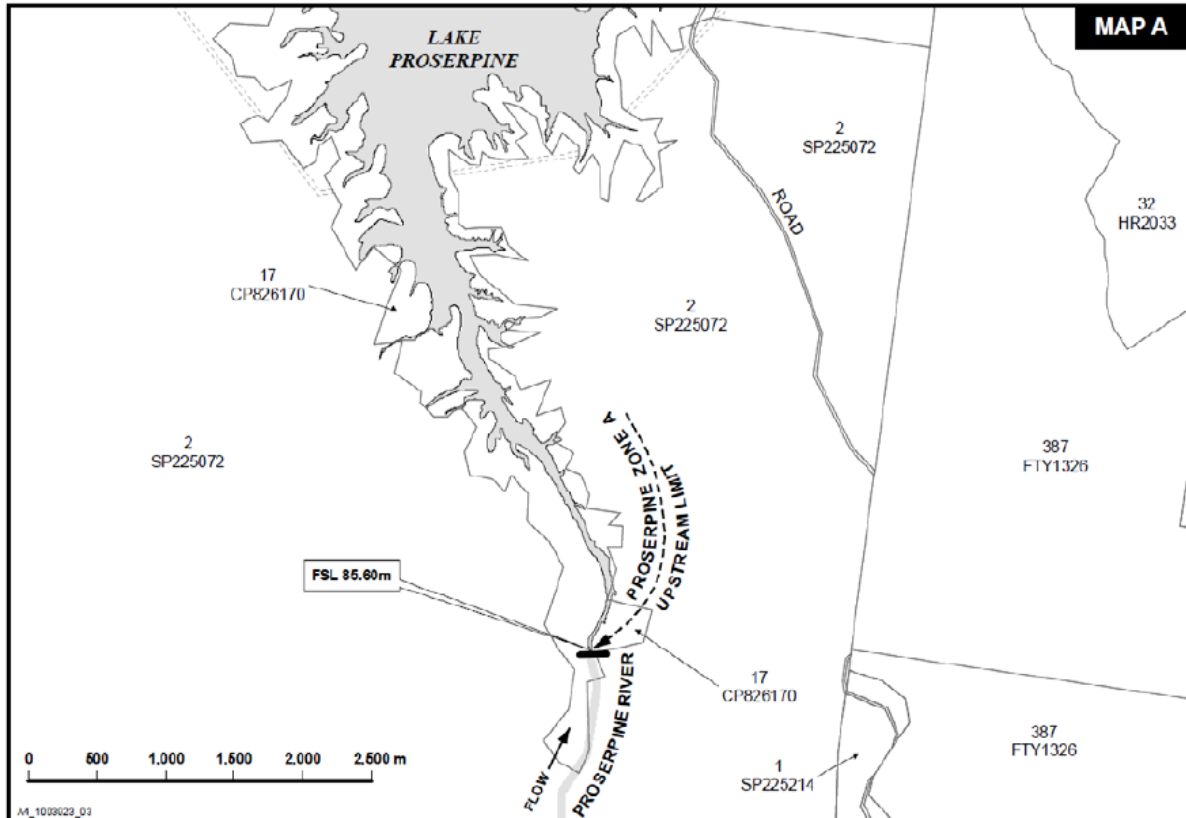
Provisions of the Whitsunday Resource Operations Plan taken to be included in the Water Resource (Whitsunday) Plan 2010 –ss. 1259 and 1264 of the *Water Act 2000*.

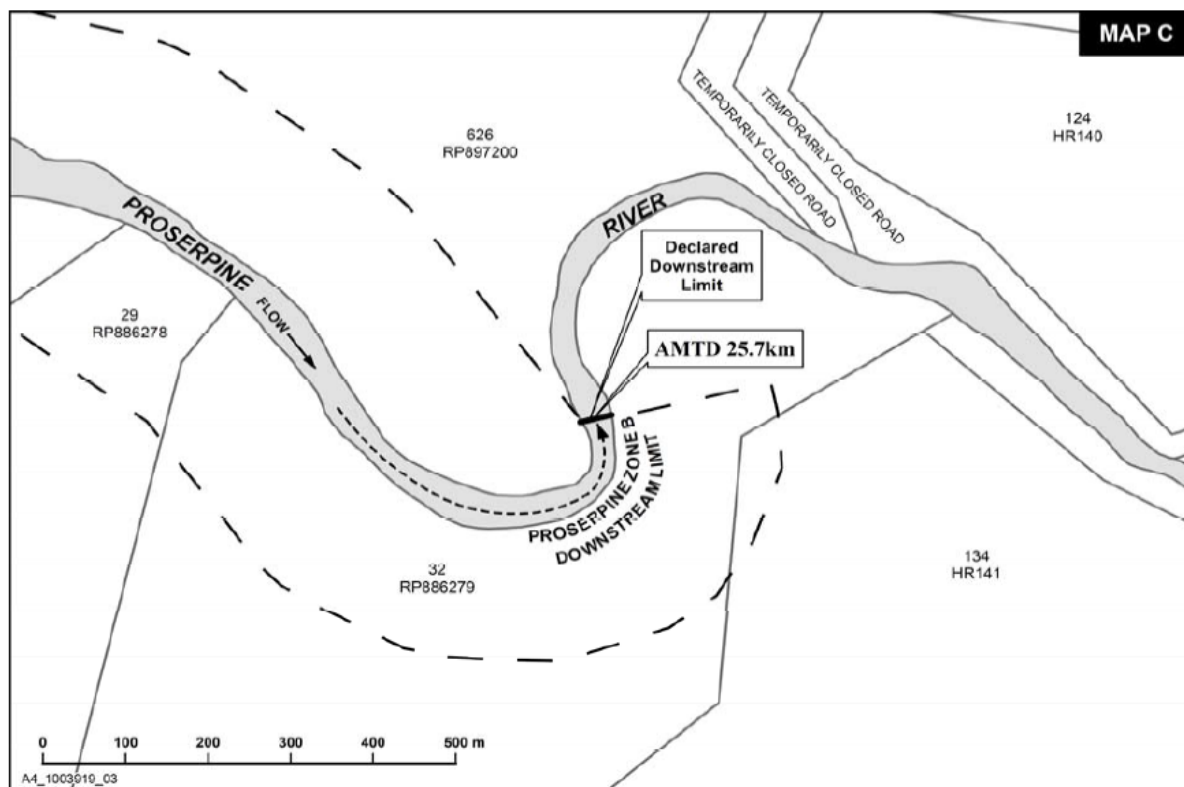
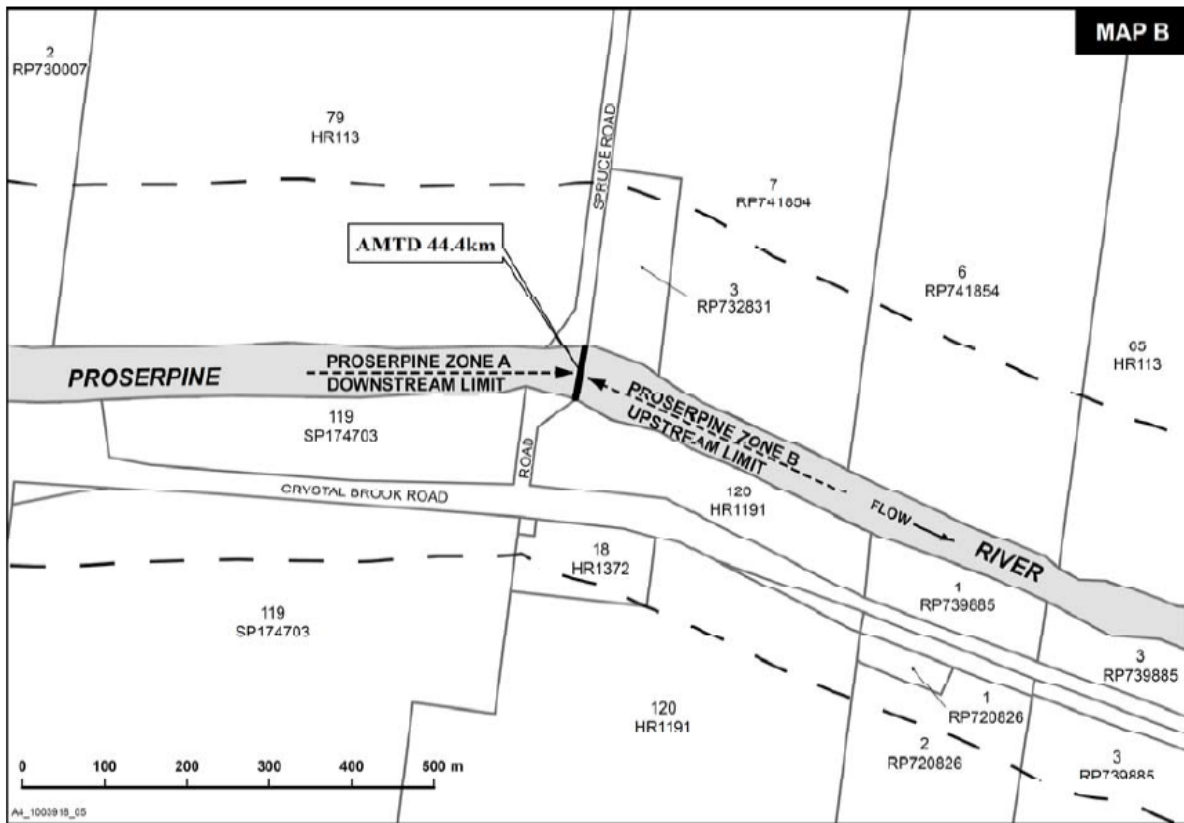
# Attachment 2(b) Resource operations plan zones (supplemented water) for the Proserpine River Water Supply Scheme

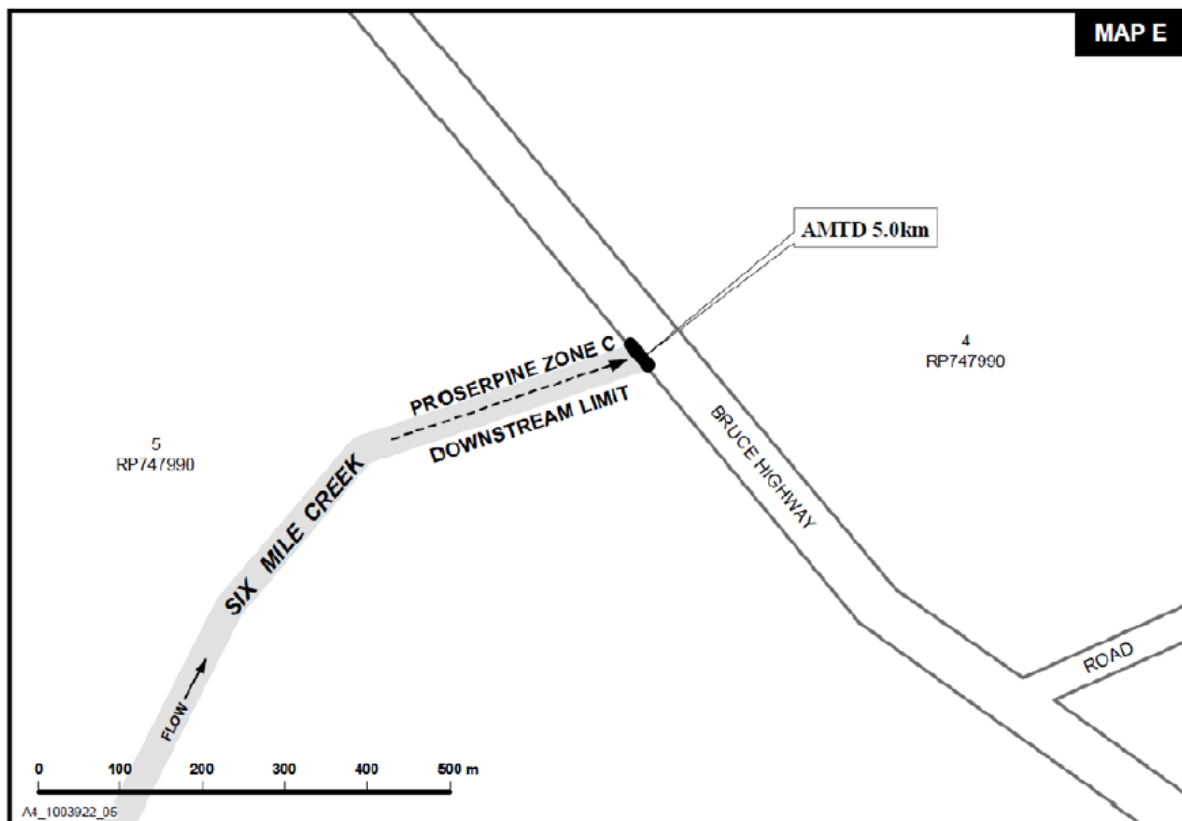
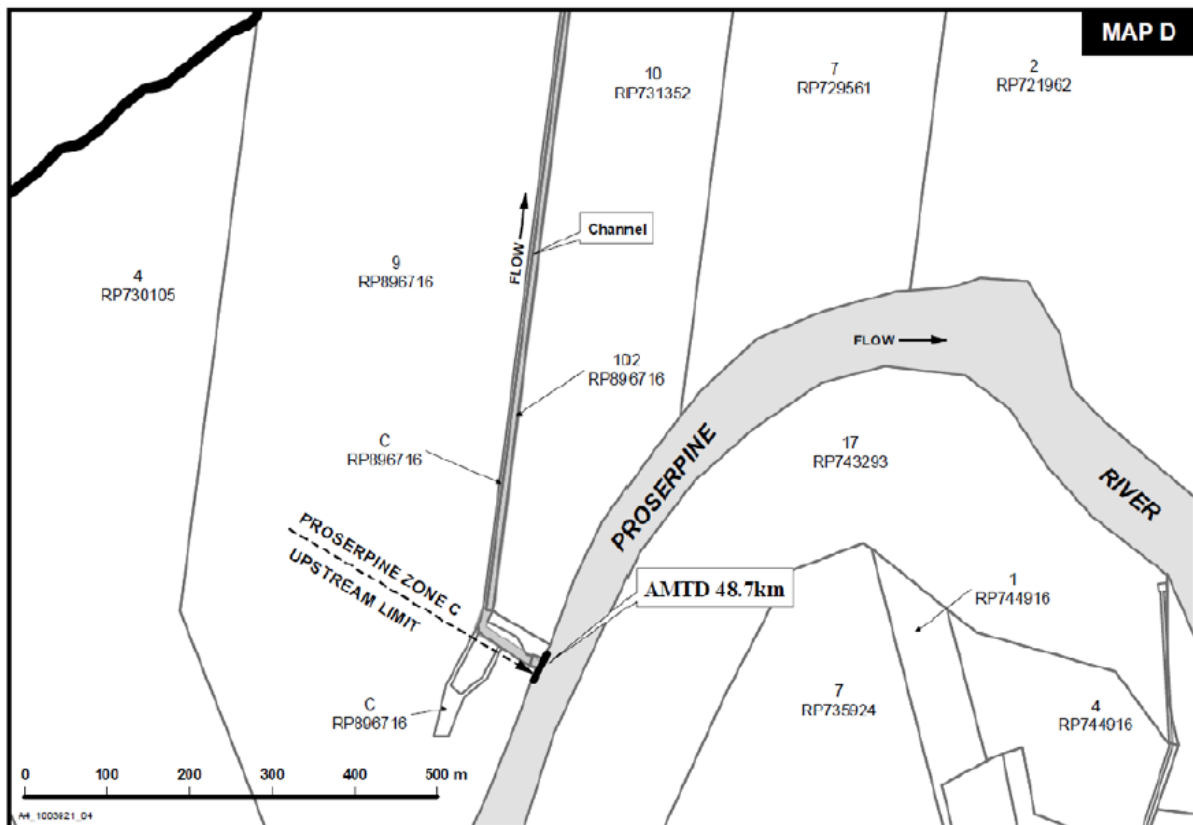


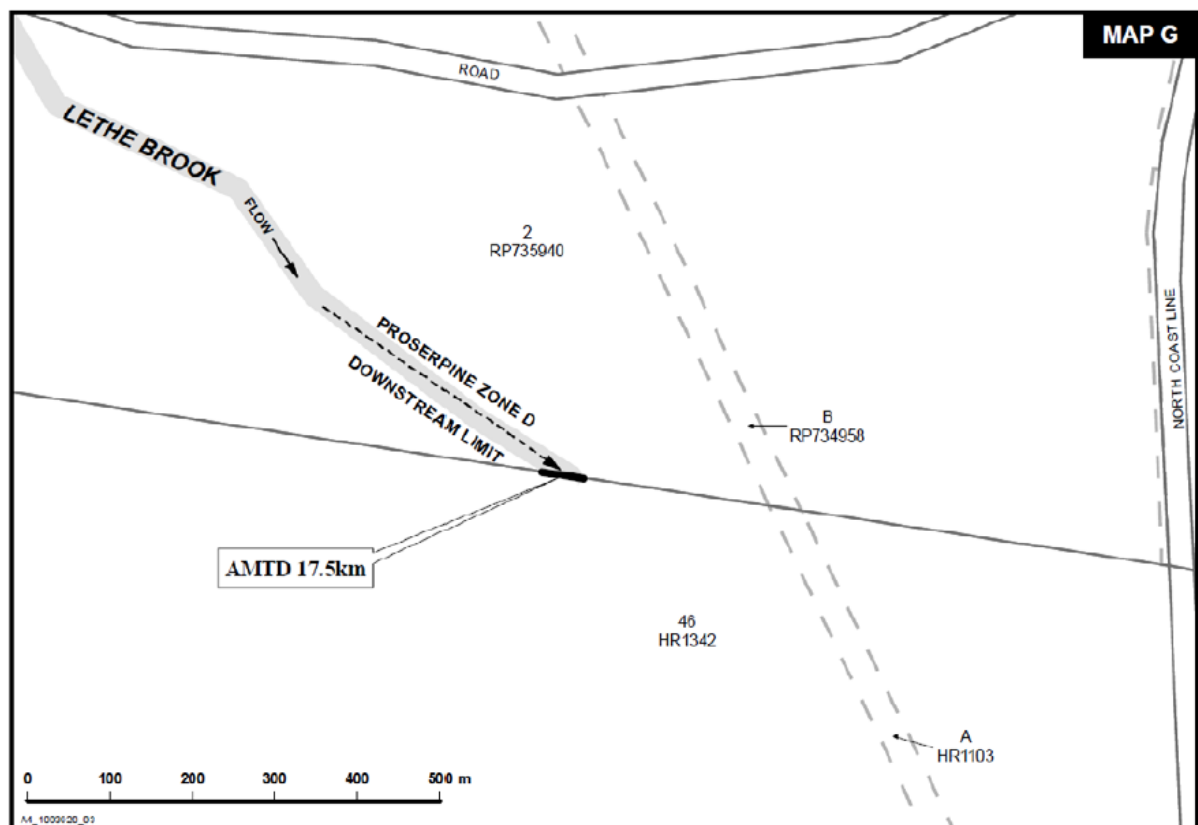
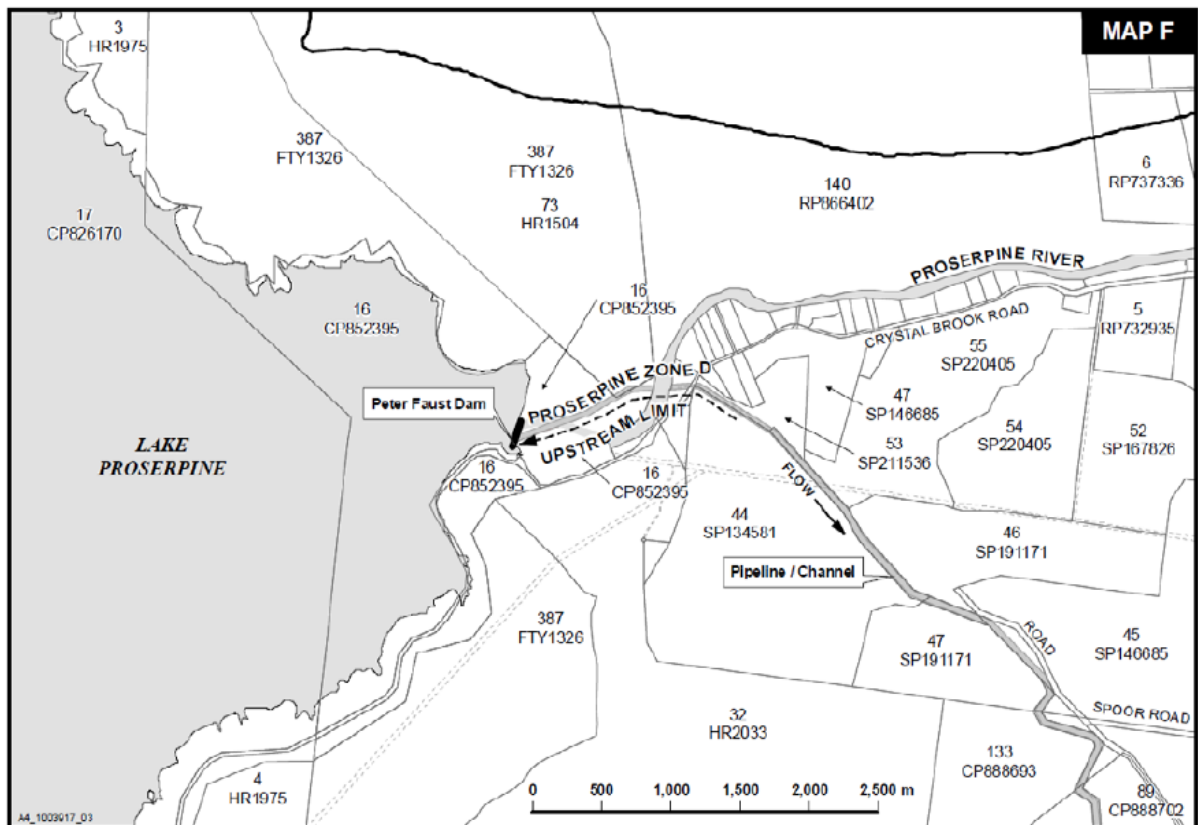
Provisions of the Whitsunday Resource Operations Plan taken to be included in the Water Resource (Whitsunday) Plan 2010 –ss. 1259 and 1264 of the *Water Act 2000*.

## Attachment 2(c) Zone limits for resource operations plan zones (supplemented water)









Provisions of the Whitsunday Resource Operations Plan taken to be included in the Water Resource (Whitsunday) Plan 2010 –ss. 1259 and 1264 of the *Water Act 2000*.