

Provisions of the Mitchell Resource Operations Plan 2009 taken to be included in the Water Plan (Mitchell) 2007 – Act ss. 1259 and 1264

Note: This document includes a number of provisions that were previously located in the Mitchell Resource Operations Plan 2009. In accordance with section 1259(1)(e) of the *Water Act 2000*¹ the provisions contained in this document, including any associated attachments, are to be read as being provisions of the Water Plan (Mitchell) 2007. This means that, despite not currently being located in the water plan these provisions carry the same authority and are subject to the same legislative requirements as the provisions contained in the water plan.

For further information on the new water planning instruments that are now in effect see:

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



This publication has been compiled by Water Policy of Policy and Program Support, Department of Natural Resources and Mines.

© State of Queensland, 2016

The Queensland Government supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia (CC BY) licence.

Under this licence you are free, without having to seek our permission, to use this publication in accordance with the licence terms.



You must keep intact the copyright notice and attribute the State of Queensland as the source of the publication.

Note: Some content in this publication may have different licence terms as indicated.

For more information on this licence, visit <http://creativecommons.org/licenses/by/3.0/au/deed.en>

The information contained herein is subject to change without notice. The Queensland Government shall not be liable for technical or other errors or omissions contained herein. The reader/user accepts all risks and responsibility for losses, damages, costs and other consequences resulting directly or indirectly from using this information.



Contents

Chapter 7	Volume or volumes of unallocated water reserved or available to be released – Act s. 1264(1)(d).....	4
80	Unallocated water reserves.....	4
Chapter 8	Criteria and process for granting, refusing, amending or otherwise dealing with water licences – Act s. 1264(1)(c)	5
Part 1	Definitions.....	5
81	Definition for this chapter	5
Part 2	Dealing with water licence applications.....	5
Division 1	Dealing with water licence applications	5
82	Definition for this chapter	5
83	Water licence applications to which this chapter applies.....	5
84	Applications to be refused.....	6
85	Application to increase the maximum rate of take	6
86	Application to increase the daily volumetric limit.....	6
87	Applications to take water for stock and domestic purposes	7
Division 2	Granting water licences for taking overland flow water.....	8
88	Scope of division 2	8
89	Granting or amending a water licence under section 56 of the Water Plan (Mitchell) 2007	8
90	Certified reports for overland flow works.....	8
91	Contents and conditions for a water licence to take overland flow water	9
Division 3	Water licences used in conjunction with overland flow works	9
92	Application to amend a water licence to change a condition	9

Chapter 7 Volume or volumes of unallocated water reserved or available to be released – Act s. 1264(1)(d)

80 Unallocated water reserves

- (1) Unallocated water is reserved in the following reserves—
- (a) strategic reserve;
 - (b) general reserve; and
 - (c) Indigenous reserve.
- (2) The total volume of each reserve and the subcatchment that the water will be made available from at the time of plan commencement is shown in table 1.

Table 1 Volume available at the time of plan commencement

Location	Volume (ML)		
	Strategic reserve	General reserve	Indigenous reserve
Mitchell River upstream of Node 1	0	20 000	0
Areas other than the Mitchell River upstream of node 1	0	35 000	0
Indigenous unallocated water from the Cape York Peninsula Region	0	0	5000
Strategic unallocated water	10 000	0	0

Chapter 8 Criteria and process for granting, refusing, amending or otherwise dealing with water licences – Act s. 1264(1)(c)

Part 1 Definitions

81 Definition for this chapter

For this chapter—

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

Part 2 Dealing with water licence applications

Division 1 Dealing with water licence applications

82 Definition for this chapter

For this chapter—

existing development permit for this part, means a development permit that is in effect at 30 November 2009.

83 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 volumetric limit for taking water;
 - (b) increase the interference with water;
 - (c) change the location from which water may be taken;
 - (d) increase the maximum rate for taking water; or
 - (e) change the flow conditions under which the water may be taken.
- (2) This chapter applies even if the application was made before 30 November 2009.
- (3) This chapter does not apply to—
 - (a) an application made under the following provisions of the *Water Act 2000*—
 - (i) section 122 to amalgamate or amend a water licence
 - (ii) section 123 to amend water licence to add or remove land following disposal of part of land to which a water licence to take water attaches;
 - (iii) section 125 to reinstate an expired water licence;
 - (b) an application made in accordance with part 1;
 - (c) an application to interfere with, or increase the interference with, water in a watercourse, lake or spring by impounding the flow of the water made in accordance with the process in section 36 of the *Water Plan (Mitchell) 2007*; or
 - (d) an application to interfere with water by artificially improving or changing the course of a water course lake or spring.

- (4) For this section—

location for a water licence, location means the section of the watercourse, lake or spring abutting or contained by the land described on the water licence at which water may be taken.

84 Applications to be refused

The chief executive must refuse an application to which this part applies unless this part explicitly provides for dealing with the application.

85 Application to increase the maximum rate of take

- (1) This section applies to an application to amend a water licence to increase the maximum rate of take of water.
- (2) Applications to increase the rate of take must be refused for the upper Mitchell subcatchment area, except on the Mitchell River above the confluence of the Rifle Creek (AMTD 554.5 km).
- (3) The chief executive may grant an application for areas, other than that listed in subsection (2), if there is an existing development permit associated with the water licence and—
 - (a) the maximum rate specified on the water licence is less than—
 - (i) for an existing development permit that states a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the rate stated in schedule 6, column 2 of the Water Plan (Mitchell) 2007;
 - (ii) for an existing development permit that states a pump size other than a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 6, column 2 of the Water Plan (Mitchell) 2007.
 - (b) where schedule 6 of the Water Plan (Mitchell) 2007 does not apply, the works authorised by an existing development permit have the capacity to take water at a rate greater than the maximum rate specified on the water licence.
- (4) The chief executive must refuse the application if the maximum rate applied for exceeds—
 - (a) for an existing development permit that states a pump size mentioned in schedule 6 column 1 of the Water Plan (Mitchell) 2007—the rate stated in schedule 6 column 2 of the Water Plan (Mitchell) 2007;
 - (b) for an existing development permit that states a pump size other than a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the rate decided by the chief executive having regard to the rates stated for similar pump sizes in schedule 6, column 2 of the Water Plan (Mitchell) 2007; or
 - (c) the rate at which the works authorised by an existing development permit are capable of taking water.

86 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 there is an existing development permit associated with the water licence and—

- (a) the daily volumetric limit specified on the water licence is less than—
 - (i) for an existing development permit that states a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the daily volumetric limit stated in schedule 6, column 3 of the Water Plan (Mitchell) 2007;
 - (ii) for an existing development permit that states a pump size other than a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the daily volumetric limit decided by the chief executive having regard to the limits stated for similar pump sizes in schedule 6, column 3 of the Water Plan (Mitchell) 2007;
 - (iii) where schedule 6 of the Water Plan (Mitchell) 2007 does not apply, the works associated with an existing development permit have the capacity to take water at a rate greater than the daily volumetric limit specified on the water licence.
- (3) The chief executive must refuse the application if the daily volumetric limit applied for exceeds—
 - (a) for an existing development permit that states a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the daily volumetric limit stated in schedule 6, column 3 of the Water Plan (Mitchell) 2007;
 - (b) for an existing development permit that states a pump size other than a pump size mentioned in schedule 6, column 1 of the Water Plan (Mitchell) 2007—the daily volumetric limit decided by the chief executive having regard to the limits stated for similar pump sizes in schedule 6, column 3 of the Water Plan (Mitchell) 2007;
 - (c) the maximum volume the works authorised by an existing development permit are capable of taking in a day.

87 Applications to take water for stock and domestic purposes

- (1) This section applies to an application to take water from a watercourse, lake or spring, where the application is for the taking of water for stock purposes or domestic purposes.
- (2) The chief executive may grant the application, only if the chief executive is satisfied that—
 - (a) the applicant does not have another water entitlement to take water for the land to which the application applies;
 - (b) the land to which the application applies does not have access to a suitable alternative water supply, including, but not limited to, a reticulated water supply;
 - (c) unallocated water under chapter 2, is not otherwise available to the applicant; and
 - (d) the plan of survey for the land to which the application applies was registered before 30 November 2009.
- (3) A licence to which this section applies can only be granted for stock purposes and domestic purposes.
- (4) In this section—
 - (a) plan of survey has the meaning given by the *Land Title Act 1994*, schedule 2.

- (b) stock purposes and domestic purposes have the meanings given by the *Water Act 2000*.

Division 2 Granting water licences for taking overland flow water

88 Scope of division 2

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

- (a) for section 56 of the *Water Plan (Mitchell) 2007*, the process for granting or amending a water licence to replace the authority under section 55(3) of the *Water Plan (Mitchell) 2007*;
- (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.

89 Granting or amending a water licence under section 56 of the Water Plan (Mitchell) 2007

- (1) The chief executive may at any time—
 - (a) grant a licence for the take of overland flow water to replace the authority under section 55(3) of the *Water Plan (Mitchell) 2007*;
 - (b) amend a licence granted under subsection (a).
- (2) Before granting or amending 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 existing works that take overland flow water;
 - (b) stating that a water licence will be granted or amended for the take of overland flow water for the existing works;
 - (c) requesting additional information including, but not limited to the pattern of use from the works based on the water requirements and purpose for which the water is used; and
 - (d) providing details of any other information required by the chief executive.
- (3) A notice under subsection (2) may also request the owner of the land to provide, in accordance with section 89, a certified report about the take of overland flow using the works.
- (4) In making a decision about granting or amending 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.

90 Certified reports for overland flow works

- (1) For the purpose of this division, a certified report is a report prepared in accordance with the standards and requirements set out in the notice provided by the chief executive.
- (2) The purpose of a certified report is to provide the chief executive with an accurate representation of—

- (a) the infrastructure to which the report relates;
 - (b) how the infrastructure is operated; and
 - (c) the ability of the infrastructure to take overland flow water.
- (3) The chief executive may require that the certified report is to be verified and signed by a registered professional engineer.
- (4) For this section—
- registered professional engineer** means a person registered as a registered professional engineer under the *Professional Engineers Act 2002*.

91 Contents 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 terms and conditions—
 - (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 annual volumetric limit for the licence;
 - (v) the mean annual volume for the licence;
- (c) may state the conditions for the licence, including flow conditions and conditions for storing water taken under the licence.

Division 3 Water licences used in conjunction with overland flow works

92 Application to amend a water licence to change a condition

- (1) This section applies if an application is received to amend a water licence to change a condition that requires water taken under the licence to be stored in particular works that also allow taking of overland flow water.
- (2) Where the chief executive decides to grant the application, the chief executive must issue a water licence for taking overland flow water to the applicant in accordance with division 2.
- (3) If the applicant fails, without reasonable excuse, to provide the information required under division 2 within 90 business days, the application lapses.