



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Part 1

Week No. 7/2003

Friday, 14 February 2003

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GOVERNMENT PRINTING SERVICE

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Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 40

Thursday, 6 January 2003

Published under authority by the Government Printing Service

RURAL FIRES ACT 1997

NOTIFICATION UNDER SECTION 99

IN pursuance of the powers conferred upon me by section 99 of the Rural Fires Act 1997, I, PHILIP KOPERBERG, Commissioner of N.S.W. Rural Fire Service, under delegation and dated 22nd October 1997 from the Hon BOB DEBUS, Minister for Emergency Services, do, by this notification, direct that the lighting, maintenance or use of all fires in the open air, with the exception of the classes of fire as specified in Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 hereto, is prohibited in the parts of the State set out in Schedule A hereto, from midnight on 6th February 2003 to midnight on 7th February 2003.

Dated this 6th day of January 2003.

PHIL KOPERBERG, A.M., A.F.S.M., B.E.M.,
Commissioner.

SCHEDULE 1

Fire lit, maintained or used for the purpose of suppressing or controlling any existing bush fire where such fire is lit, maintained or used under the direction of the Commissioner of the N.S.W. Rural Fire Service, any officer of the N.S.W. Fire Brigade, any officer authorised by the Forestry Commission of New South Wales, any officer authorised by the Director of National Parks and Wildlife Service, or any Fire Control Officer, Captain, Deputy Captain, Group Captain or Deputy Group Captain of any bush fire brigade organised or authorised under the Rural Fires Act 1997.

SCHEDULE 2

Fire lit, maintained or used at a registered factory within the meaning of the Factories, Shops and Industries Act 1962, subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 3

Fire lit, maintained or used at a hospital within the meaning of the Public Hospitals Act 1929, subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 4

Fire lit, maintained or used by, or under the authority of, a Council as defined in the dictionary of the Rural Fires Act 1997, for the destruction of garbage or other refuse at any sanitary depot provided and controlled by such Council subject to observance of the following special conditions:

- (1) a fire break shall be established and maintained around such depot to a width of not less than thirty metres;
- (2) at least one person shall be in attendance continuously at such depot for the duration of the fire;
- (3) all reasonable steps shall be taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 5

Fire lit, maintained or used by or under the authority of any person or body of persons, corporate or unincorporate, for or in connection with essential repair, or maintenance of services or equipment required for continuance or restoration of the supply or provision of heat, light, power, water, sewerage, transport or communication subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 6

Fire lit, maintained or used by a Public Authority as defined in the dictionary of the Rural Fires Act 1997, for the disposal of waste or putrescent material likely to cause a health hazard subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 7

Fire lit, maintained or used between the hours of 7 p.m. and 7 a.m. for a purpose associated with the harvesting of sugar cane subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 8

Fire lit by the Roads and Traffic Authority of New South Wales or its contractors for the purpose of heating bitumen in tankers, sprayers, storage units, mobile asphalt plants, mobile asphalt pavers and pavement recycling machines for road repair and construction activities subject to the observance of a special condition that adequate fire fighting equipment to the satisfaction of the Commissioner of the Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the Rural Fires Act 1997, or any other person.

SCHEDULE 9

Fire lit, maintained or used for the purpose associated with the drying of products from vineyards within Wentworth and Balranald Council areas subject to observance of the special condition that inflammable material is removed from around the heating apparatus for a distance of not less than ten metres to the specification of the Fire Control Officer.

SCHEDULE 10

Fire lit by a company contracted for the construction of a natural gas pipeline from Young to Lithgow within the Central Tablelands, Central West Slopes and South West Slopes Weather Forecast Districts provided that adequate fire fighting equipment is immediately available to the satisfaction of the Commissioner of the N.S.W. Rural Fire Service or his nominee to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person.

SCHEDULE 11

Fire lit, maintained or used, for the purpose of food preparation on a gas fired or electric appliance where:

- (a) such appliance is under the direct control of a responsible adult person, present at all relevant times;
- (b) no combustible material of any kind is allowed within three metres of the appliance when it is operating;
- (c) a system of applying an adequate stream of water to the appliance and its surrounds is available for immediate and continuous use; and
- (d) where the appliance is not on premises containing a permanent private dwelling or is more than twenty metres from such dwelling, both the appliance and the land on which it is to be placed have been approved for the purpose by the Council of the area.

SCHEDULE 12

Fire lit, maintained or used in accordance with Regulation 27 of the Rural Fires Regulation 1997, for the production of charcoal, 'but not for the destruction of waste arising therefrom,' subject to the observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 13

"Oxy-acetylene and electric welding apparatus used in accordance with the N.S.W. Coal Mine Regulations Act 1982, for the purpose of the maintenance and repair of mining equipment subject to a special condition that adequate fire fighting equipment is available and the operation is conducted within an area identified as a colliery holding."

SCHEDULE 14

"Oxy-acetylene and electric welding apparatus used by the company contracted for the construction of an ethane gas pipeline from Young to Leppington within the Metropolitan, Southern Tablelands, Illawarra and Riverina weather forecast districts provided that adequate fire fighting equipment to the satisfaction of Commissioner of the N.S.W. Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person."

SCHEDULE 15

Any conditions notified in writing by the Commissioner of the N.S.W. Rural Fire Service to individuals or organisations.

SCHEDULE A

Zone C – Riverina Weather Forecast District.

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Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 41

Monday, 10 February 2003

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RURAL FIRES ACT 1997

NOTIFICATION UNDER SECTION 99

IN pursuance of the powers conferred upon me by section 99 of the Rural Fires Act 1997, I, PHILIP KOPERBERG, Commissioner of N.S.W. Rural Fire Service, under delegation and dated 22nd October 1997 from the Hon BOB DEBUS, Minister for Emergency Services, do, by this notification, direct that the lighting, maintenance or use of all fires in the open air, with the exception of the classes of fire as specified in Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 hereto, is prohibited in the parts of the State set out in Schedule A hereto, from midnight on 10th February 2003 to midnight on 11th February 2003.

Dated this 10th day of February 2003.

PHIL KOPERBERG, A.M., A.F.S.M., B.E.M.,
Commissioner.

SCHEDULE 1

Fire lit, maintained or used for the purpose of suppressing or controlling any existing bush fire where such fire is lit, maintained or used under the direction of the Commissioner of the N.S.W. Rural Fire Service, any officer of the N.S.W. Fire Brigade, any officer authorised by the Forestry Commission of New South Wales, any officer authorised by the Director of National Parks and Wildlife Service, or any Fire Control Officer, Captain, Deputy Captain, Group Captain or Deputy Group Captain of any bush fire brigade organised or authorised under the Rural Fires Act 1997.

SCHEDULE 2

Fire lit, maintained or used at a registered factory within the meaning of the Factories, Shops and Industries Act 1962, subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 3

Fire lit, maintained or used at a hospital within the meaning of the Public Hospitals Act 1929, subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 4

Fire lit, maintained or used by, or under the authority of, a Council as defined in the dictionary of the Rural Fires Act 1997, for the destruction of garbage or other refuse at any sanitary depot provided and controlled by such Council subject to observance of the following special conditions:

- (1) a fire break shall be established and maintained around such depot to a width of not less than thirty metres;
- (2) at least one person shall be in attendance continuously at such depot for the duration of the fire;
- (3) all reasonable steps shall be taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 5

Fire lit, maintained or used by or under the authority of any person or body of persons, corporate or unincorporate, for or in connection with essential repair, or maintenance of services or equipment required for continuance or restoration of the supply or provision of heat, light, power, water, sewerage, transport or communication subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 6

Fire lit, maintained or used by a Public Authority as defined in the dictionary of the Rural Fires Act 1997, for the disposal of waste or putrescent material likely to cause a health hazard subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 7

Fire lit, maintained or used between the hours of 7 p.m. and 7 a.m. for a purpose associated with the harvesting of sugar cane subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 8

Fire lit by the Roads and Traffic Authority of New South Wales or its contractors for the purpose of heating bitumen in tankers, sprayers, storage units, mobile asphalt plants, mobile asphalt pavers and pavement recycling machines for road repair and construction activities subject to the observance of a special condition that adequate fire fighting equipment to the satisfaction of the Commissioner of the Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the Rural Fires Act 1997, or any other person.

SCHEDULE 9

Fire lit, maintained or used for the purpose associated with the drying of products from vineyards within Wentworth and Balranald Council areas subject to observance of the special condition that inflammable material is removed from around the heating apparatus for a distance of not less than ten metres to the specification of the Fire Control Officer.

SCHEDULE 10

Fire lit by a company contracted for the construction of a natural gas pipeline from Young to Lithgow within the Central Tablelands, Central West Slopes and South West Slopes Weather Forecast Districts provided that adequate fire fighting equipment is immediately available to the satisfaction of the Commissioner of the N.S.W. Rural Fire Service or his nominee to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person.

SCHEDULE 11

Fire lit, maintained or used, for the purpose of food preparation on a gas fired or electric appliance where:

- (a) such appliance is under the direct control of a responsible adult person, present at all relevant times;
- (b) no combustible material of any kind is allowed within three metres of the appliance when it is operating;
- (c) a system of applying an adequate stream of water to the appliance and its surrounds is available for immediate and continuous use; and
- (d) where the appliance is not on premises containing a permanent private dwelling or is more than twenty metres from such dwelling, both the appliance and the land on which it is to be placed have been approved for the purpose by the Council of the area.

SCHEDULE 12

Fire lit, maintained or used in accordance with Regulation 27 of the Rural Fires Regulation 1997, for the production of charcoal, 'but not for the destruction of waste arising therefrom,' subject to the observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 13

"Oxy-acetylene and electric welding apparatus used in accordance with the N.S.W. Coal Mine Regulations Act 1982, for the purpose of the maintenance and repair of mining equipment subject to a special condition that adequate fire fighting equipment is available and the operation is conducted within an area identified as a colliery holding."

SCHEDULE 14

"Oxy-acetylene and electric welding apparatus used by the company contracted for the construction of an ethane gas pipeline from Young to Leppington within the Metropolitan, Southern Tablelands, Illawarra and Riverina weather forecast districts provided that adequate fire fighting equipment to the satisfaction of Commissioner of the N.S.W. Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person."

SCHEDULE 15

Any conditions notified in writing by the Commissioner of the N.S.W. Rural Fire Service to individuals or organisations.

SCHEDULE A

Zone B – Lower Western Weather Forecast District.

Zone C – Riverina Weather Forecast District.

Zone D – South West Slopes Weather Forecast District.

Zone H – Central West Plains Weather Forecast District.



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 42

Tuesday, 11 February 2003

Published under authority by the Government Printing Service

RURAL FIRES ACT 1997

NOTIFICATION UNDER SECTION 99

IN pursuance of the powers conferred upon me by section 99 of the Rural Fires Act 1997, I, PHILIP KOPERBERG, Commissioner of N.S.W. Rural Fire Service, under delegation and dated 22nd October 1997 from the Hon BOB DEBUS, Minister for Emergency Services, do, by this notification, direct that the lighting, maintenance or use of all fires in the open air, with the exception of the classes of fire as specified in Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 hereto, is prohibited in the parts of the State set out in Schedule A hereto, from midnight on 11th February 2003 to midnight on 12th February 2003.

Dated this 11th day of February 2003.

PHIL KOPERBERG, A.M., A.F.S.M., B.E.M.,
Commissioner.

SCHEDULE 1

Fire lit, maintained or used for the purpose of suppressing or controlling any existing bush fire where such fire is lit, maintained or used under the direction of the Commissioner of the N.S.W. Rural Fire Service, any officer of the N.S.W. Fire Brigade, any officer authorised by the Forestry Commission of New South Wales, any officer authorised by the Director of National Parks and Wildlife Service, or any Fire Control Officer, Captain, Deputy Captain, Group Captain or Deputy Group Captain of any bush fire brigade organised or authorised under the Rural Fires Act 1997.

SCHEDULE 2

Fire lit, maintained or used at a registered factory within the meaning of the Factories, Shops and Industries Act 1962, subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 3

Fire lit, maintained or used at a hospital within the meaning of the Public Hospitals Act 1929, subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 4

Fire lit, maintained or used by, or under the authority of, a Council as defined in the dictionary of the Rural Fires Act 1997, for the destruction of garbage or other refuse at any sanitary depot provided and controlled by such Council subject to observance of the following special conditions:

- (1) a fire break shall be established and maintained around such depot to a width of not less than thirty metres;
- (2) at least one person shall be in attendance continuously at such depot for the duration of the fire;
- (3) all reasonable steps shall be taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 5

Fire lit, maintained or used by or under the authority of any person or body of persons, corporate or unincorporate, for or in connection with essential repair, or maintenance of services or equipment required for continuance or restoration of the supply or provision of heat, light, power, water, sewerage, transport or communication subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 6

Fire lit, maintained or used by a Public Authority as defined in the dictionary of the Rural Fires Act 1997, for the disposal of waste or putrescent material likely to cause a health hazard subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 7

Fire lit, maintained or used between the hours of 7 p.m. and 7 a.m. for a purpose associated with the harvesting of sugar cane subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 8

Fire lit by the Roads and Traffic Authority of New South Wales or its contractors for the purpose of heating bitumen in tankers, sprayers, storage units, mobile asphalt plants, mobile asphalt pavers and pavement recycling machines for road repair and construction activities subject to the observance of a special condition that adequate fire fighting equipment to the satisfaction of the Commissioner of the Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the Rural Fires Act 1997, or any other person.

SCHEDULE 9

Fire lit, maintained or used for the purpose associated with the drying of products from vineyards within Wentworth and Balranald Council areas subject to observance of the special condition that inflammable material is removed from around the heating apparatus for a distance of not less than ten metres to the specification of the Fire Control Officer.

SCHEDULE 10

Fire lit by a company contracted for the construction of a natural gas pipeline from Young to Lithgow within the Central Tablelands, Central West Slopes and South West Slopes Weather Forecast Districts provided that adequate fire fighting equipment is immediately available to the satisfaction of the Commissioner of the N.S.W. Rural Fire Service or his nominee to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person.

SCHEDULE 11

Fire lit, maintained or used, for the purpose of food preparation on a gas fired or electric appliance where:

- (a) such appliance is under the direct control of a responsible adult person, present at all relevant times;
- (b) no combustible material of any kind is allowed within three metres of the appliance when it is operating;
- (c) a system of applying an adequate stream of water to the appliance and its surrounds is available for immediate and continuous use; and
- (d) where the appliance is not on premises containing a permanent private dwelling or is more than twenty metres from such dwelling, both the appliance and the land on which it is to be placed have been approved for the purpose by the Council of the area.

SCHEDULE 12

Fire lit, maintained or used in accordance with Regulation 27 of the Rural Fires Regulation 1997, for the production of charcoal, 'but not for the destruction of waste arising therefrom,' subject to the observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 13

"Oxy-acetylene and electric welding apparatus used in accordance with the N.S.W. Coal Mine Regulations Act 1982, for the purpose of the maintenance and repair of mining equipment subject to a special condition that adequate fire fighting equipment is available and the operation is conducted within an area identified as a colliery holding."

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SCHEDULE 15

Any conditions notified in writing by the Commissioner of the N.S.W. Rural Fire Service to individuals or organisations.

SCHEDULE A

Zone D – South West Slopes Weather Forecast District.

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Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 43

Wednesday, 12 February 2003

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RURAL FIRES ACT 1997

NOTIFICATION UNDER SECTION 99

IN pursuance of the powers conferred upon me by section 99 of the Rural Fires Act 1997, I, PHILIP KOPERBERG, Commissioner of N.S.W. Rural Fire Service, under delegation and dated 22nd October 1997 from the Hon BOB DEBUS, Minister for Emergency Services, do, by this notification, direct that the lighting, maintenance or use of all fires in the open air, with the exception of the classes of fire as specified in Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 hereto, is prohibited in the parts of the State set out in Schedule A hereto, from midnight on 12 February 2003 to midnight on 13th February 2003.

Dated this 12th day of February 2003.

PHIL KOPERBERG, A.M., A.F.S.M., B.E.M.,
Commissioner.

SCHEDULE 1

Fire lit, maintained or used for the purpose of suppressing or controlling any existing bush fire where such fire is lit, maintained or used under the direction of the Commissioner of the N.S.W. Rural Fire Service, any officer of the N.S.W. Fire Brigade, any officer authorised by the Forestry Commission of New South Wales, any officer authorised by the Director of National Parks and Wildlife Service, or any Fire Control Officer, Captain, Deputy Captain, Group Captain or Deputy Group Captain of any bush fire brigade organised or authorised under the Rural Fires Act 1997.

SCHEDULE 2

Fire lit, maintained or used at a registered factory within the meaning of the Factories, Shops and Industries Act 1962, subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

SCHEDULE 3

Fire lit, maintained or used at a hospital within the meaning of the Public Hospitals Act 1929, subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

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- (1) a fire break shall be established and maintained around such depot to a width of not less than thirty metres;
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Fire lit, maintained or used by or under the authority of any person or body of persons, corporate or unincorporate, for or in connection with essential repair, or maintenance of services or equipment required for continuance or restoration of the supply or provision of heat, light, power, water, sewerage, transport or communication subject to observance of the special condition that all reasonable steps are taken to prevent the escape of fire, sparks or incandescent or burning material therefrom.

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Fire lit, maintained or used by a Public Authority as defined in the dictionary of the Rural Fires Act 1997, for the disposal of waste or putrescent material likely to cause a health hazard subject to observance of the special condition that the fire is lit in a properly constructed incinerator designed to prevent the escape of fire, sparks or incandescent or burning material therefrom.

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SCHEDULE 8

Fire lit by the Roads and Traffic Authority of New South Wales or its contractors for the purpose of heating bitumen in tankers, sprayers, storage units, mobile asphalt plants, mobile asphalt pavers and pavement recycling machines for road repair and construction activities subject to the observance of a special condition that adequate fire fighting equipment to the satisfaction of the Commissioner of the Rural Fire Service, or his nominee, is immediately available to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the Rural Fires Act 1997, or any other person.

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SCHEDULE 10

Fire lit by a company contracted for the construction of a natural gas pipeline from Young to Lithgow within the Central Tablelands, Central West Slopes and South West Slopes Weather Forecast Districts provided that adequate fire fighting equipment is immediately available to the satisfaction of the Commissioner of the N.S.W. Rural Fire Service or his nominee to prevent the escape of any such fire under circumstances as to cause or to be likely to cause injury or damage to any person or the land or property of the Crown or a Public Authority as defined in the dictionary of the Rural Fires Act 1997, or any other person.

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Fire lit, maintained or used, for the purpose of food preparation on a gas fired or electric appliance where:

- (a) such appliance is under the direct control of a responsible adult person, present at all relevant times;
- (b) no combustible material of any kind is allowed within three metres of the appliance when it is operating;
- (c) a system of applying an adequate stream of water to the appliance and its surrounds is available for immediate and continuous use; and
- (d) where the appliance is not on premises containing a permanent private dwelling or is more than twenty metres from such dwelling, both the appliance and the land on which it is to be placed have been approved for the purpose by the Council of the area.

SCHEDULE 12

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SCHEDULE 13

"Oxy-acetylene and electric welding apparatus used in accordance with the N.S.W. Coal Mine Regulations Act 1982, for the purpose of the maintenance and repair of mining equipment subject to a special condition that adequate fire fighting equipment is available and the operation is conducted within an area identified as a colliery holding."

SCHEDULE 14

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SCHEDULE 15

Any conditions notified in writing by the Commissioner of the N.S.W. Rural Fire Service to individuals or organisations.

SCHEDULE A

Zone B – Lower Western Weather Forecast District.

Zone E – Southern Tablelands Weather Forecast District.

Zone K – North West Plains Weather Forecast District.

Zone L – North West Slopes Weather Forecast District.



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 44
Thursday, 13 February 2003

Published under authority by the Government Printing Service

SPECIAL SUPPLEMENT

The Cabinet Office, Sydney
13 February 2003

His Excellency the Lieutenant Governor directs that it be notified that he has accepted the resignation of:

- the Honourable J R Face, MP as Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development.

By His Excellency's Command,

BOB CARR
Premier

His Excellency the Lieutenant Governor has been pleased to appoint the following person to the offices set out after his name:

- the Honourable Michael Rueben Egan, MLC, Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development.

By His Excellency's Command,

BOB CARR
Premier

Ministers' full titles are now as follows:

The Honourable Robert John Carr MP
Premier, Minister for the Arts, and Minister for Citizenship

The Honourable Andrew John Refshauge MP
Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing

The Honourable Michael Rueben Egan MLC
Treasurer, Minister for State Development, Minister for Gaming and Racing, Minister Assisting the Premier on Hunter Development, and Vice-President of the Executive Council

The Honourable Craig John Knowles MP
Minister for Health

The Honourable Robert John Debus MP
Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts

The Honourable John Joseph Della Bosca MLC
Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast

The Honourable Patrick Carl Scully MP
Minister for Transport, and Minister for Roads

The Honourable John Joseph Aquilina MP
Minister for Land and Water Conservation, and Minister for Fair Trading

The Honourable Kimberley Maxwell Yeadon MP
Minister for Information Technology, Minister for Energy, Minister for Forestry, and Minister for Western Sydney

The Honourable John Arthur Watkins MP
Minister for Education and Training

The Honourable Richard Sanderson Amery MP
Minister for Agriculture, and Minister for Corrective Services

The Honourable Harry Francis Woods MP
Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs

The Honourable Morris Iemma MP
Minister for Public Works and Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Citizenship

The Honourable Sandra Christine Nori MP
Minister for Small Business, Minister for Tourism, and Minister for Women

The Honourable Edward Moses Obeid MLC
Minister for Mineral Resources, and Minister for Fisheries

The Honourable Carmel Mary Tebbutt MLC
Minister for Community Services, Minister for Ageing, Minister for Disability Services, Minister for Juvenile Justice, and Minister Assisting the Premier on Youth

The Honourable Michael Costa MLC
Minister for Police

By His Excellency's Command

BOB CARR
Premier



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NEW SOUTH WALES

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LEGISLATION

Proclamations



New South Wales

Proclamation

under the

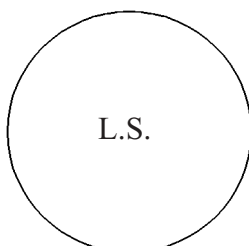
Crimes (Administration of Sentences) Amendment Act 2002
No 36

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Crimes (Administration of Sentences) Amendment Act 2002*, do, by this my Proclamation, appoint 21 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



RICHARD AMERY, M.P.,
Minister for Corrective Services

GOD SAVE THE QUEEN!



Proclamation

under the

Defamation Amendment Act 2002 No 136

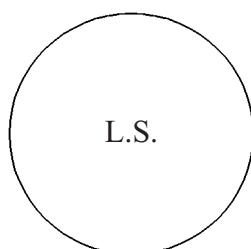
JAMES JACOB SPIGELMAN,

By Deputation from Her Excellency the Governor

I, the Honourable James Jacob Spigelman, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Defamation Amendment Act 2002*, do, by this my Proclamation, appoint 17 February 2003 as the day on which that Act commences except for Schedule 1 [2], [6] and [12].

Signed and sealed at Sydney, this 12th day of February 2003.

By His Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!

Explanatory note

The objects of this Proclamation are:

- (a) to commence amendments to the *Defamation Act 1974* with respect to the objects of the Act, the functions of judges and juries, the right of corporations to sue for defamation, defences, costs in defamation proceedings and certain transitional matters, and

Proclamation

Explanatory note

-
- (b) to commence amendments to the *District Court Act 1973* to require actions for defamation in the District Court generally to be tried by jury unless the Court orders otherwise, and
 - (c) to commence amendments to the *Limitation Act 1969* to provide for a one year limitation period for defamation actions and the extension of that limitation period.

However, this Proclamation does not commence certain amendments to the *Defamation Act 1974* relating to offers to make amends.

Regulations

Electricity Supply (General) Amendment (Greenhouse Gas Abatement Certificate Scheme) Regulation 2003

under the

Electricity Supply Act 1995

His Excellency the Lieutenant-Governor, with the advice of the Executive Council,
has made the following Regulation under the *Electricity Supply Act 1995*.

KIM YEADON, M.P.,
Minister for Energy

Explanatory note

The object of this Regulation is to make provision for the operation of the abatement certificate scheme under Part 8A of the *Electricity Supply Act 1995*.

The Regulation makes provision for the following:

- (a) eligibility for accreditation as an abatement certificate provider in respect of the following activities:
 - (i) electricity generation activities,
 - (ii) carbon sequestration activities,
 - (iii) demand side abatement activities,
 - (iv) large user abatement activities,
- (b) applications for accreditation,
- (c) conditions of accreditation,
- (d) the suspension and cancellation of accreditation,
- (e) the creation and surrender of abatement certificates,

Electricity Supply (General) Amendment (Greenhouse Gas Abatement Certificate Scheme) Regulation 2003

Explanatory note

- (f) the transfer of abatement certificates,
- (g) audits under Part 8A of the Act,
- (h) review of decisions under Part 8A of the Act,
- (i) other miscellaneous matters.

This Regulation is made under the *Electricity Supply Act 1995*, including section 106 (the general regulation-making power) and the provisions of Part 8A of that Act.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Clause 1

Electricity Supply (General) Amendment (Greenhouse Gas Abatement Certificate Scheme) Regulation 2003

1 Name of Regulation

This Regulation is the *Electricity Supply (General) Amendment (Greenhouse Gas Abatement Certificate Scheme) Regulation 2003*.

2 Amendment of Electricity Supply (General) Regulation 2001

The *Electricity Supply (General) Regulation 2001* is amended as set out in Schedule 1.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 2)

[1] **Clause 73EF Notice of assessments**

Re-number the clause as clause 73EE.

[2] **Part 8B**

Insert after Part 8A:

Part 8B Greenhouse gas abatement certificate scheme

Division 1 Definitions

73F Definitions

In this Part:

approved auditor means a person required to conduct an audit under Division 8.

carbon sequestration activity—see clause 73GA.

category A electricity generation activity—see clause 73G.

Commonwealth renewable energy scheme baseline of a power station means the 1997 eligible renewable power baseline for the power station within the meaning of section 14 of the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

demand side abatement activity—see clause 73GB.

electricity generation activity—see clause 73G.

eligible land has the meaning given by the greenhouse gas benchmark rules.

large user means an elective participant, or a market customer who is a large customer.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Schedule 1

large user abatement activity—see clause 73GC.

mandatory greenhouse gas scheme means a mandatory scheme (whether of this State or another jurisdiction) intended to promote the reduction of greenhouse gas emissions or that has the effect of substantially reducing greenhouse gas emissions (but does not include the abatement certificate scheme under Part 8A of the Act).

ORER means the Office of the Renewable Energy Regulator within the meaning of the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

Division 2 Eligibility for accreditation

Note. This Division, together with the greenhouse gas benchmark rules, provides for eligibility for accreditation as an abatement certificate provider in respect of the following activities:

- (a) electricity generation activities (including category A electricity generation activities),
- (b) carbon sequestration activities,
- (c) demand side abatement activities,
- (d) large user abatement activities.

73G Electricity generation activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the activity involves the generation of electricity by a generating system and the person is eligible for accreditation in respect of the generation of electricity by the generating system under the provisions of the greenhouse gas benchmark rules relating to generation, and
 - (b) the generating system is equipped with metering equipment approved by the Scheme Administrator, and
 - (c) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator.
- (2) A person is also eligible for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the activity involves the generation of electricity by a generating system and the person is a retail supplier in

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Amendments

respect of electricity generated by the generating system and purchased by the retail supplier under a power purchase agreement, and

- (b) the power purchase agreement remains in force, and
- (c) the person has previously claimed the electricity generation as category A under the arrangements relating to greenhouse strategies in force under the Act before the commencement of Part 8A of that Act (and referred to in the Emissions Workbook), and
- (d) the generating system is classified as Category A under the greenhouse gas benchmark rules, and
- (e) the person is eligible for accreditation in respect of the generation of electricity by the generating system under the greenhouse gas benchmark rules relating to generation.

Note. Category A electricity generation activities are electricity generation activities that are deemed to be assigned to a retail supplier as referred to in section 97DA (6) of the Act.

- (3) For the purposes of this Regulation:
 - (a) an activity that gives rise to eligibility for accreditation under subclause (1) or (2) may be referred to as an ***electricity generation activity***, and
 - (b) an activity that gives rise to eligibility for accreditation under subclause (2) may also be referred to as a ***category A electricity generation activity***.
- (4) In this clause:

Emissions Workbook means the document entitled *Greenhouse Gas Emissions from Electricity Supplied in NSW: Emissions Workbook* published by the Ministry of Energy and Utilities in October 2000.

power purchase agreement has the meaning given by the greenhouse gas benchmark rules.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Schedule 1

73GA Carbon sequestration activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the activity is a carbon sequestration activity under the greenhouse gas benchmark rules and the person is eligible for accreditation as an abatement certificate provider in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to carbon sequestration, and
 - (b) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *carbon sequestration activity*.

73GB Demand side abatement activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the activity is a demand side abatement activity under the greenhouse gas benchmark rules and the person is eligible for accreditation in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to demand side abatement, and
 - (b) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *demand side abatement activity*.

73GC Large user abatement activities

- (1) A person is eligible for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the person is a large user, and
 - (b) the person is eligible for accreditation as an abatement certificate provider in respect of the activity under the provisions of the greenhouse gas benchmark rules relating to large user abatement certificates, and

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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- (c) the person has record keeping arrangements with respect to the activity approved by the Scheme Administrator.
- (2) For the purposes of this Regulation, an activity that gives rise to eligibility for accreditation under this clause may be referred to as a *large user abatement activity*.

Division 3 Applications for accreditation

73H Application for accreditation

- (1) An application for accreditation as an abatement certificate provider in respect of an activity:
 - (a) is to be made in the form and manner approved by the Scheme Administrator, and
 - (b) is to be accompanied by an application fee of \$500.
- Note.** Section 97DB (5) of the Act allows the Scheme Administrator to charge a fee (in addition to the application fee) in respect of the investigation and determination of an application for accreditation.
- (2) An application for accreditation as an abatement certificate provider in respect of an electricity generation activity:
 - (a) must disclose whether or not the applicant is accredited as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system that the person owns or operates, and
 - (b) if the applicant is so accredited, must be accompanied by any information or authorities (such as release forms) that the Scheme Administrator may require for the purpose of obtaining from ORER, or substantiating, information relating to the following:
 - (i) any renewable energy certificates the person has created during any period,
 - (ii) the Commonwealth renewable energy scheme baseline of the power station.

73HA Benefits under other schemes

The Scheme Administrator may require a person who applies for accreditation to give to the Scheme Administrator an undertaking, in such terms as the Scheme Administrator may

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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require, not to claim any benefit under a mandatory greenhouse gas scheme if such an action would result in a benefit being obtained under both that scheme and the abatement certificate scheme established by Part 8A of the Act in respect of the same output or greenhouse gas abatement.

73HB Grounds for refusal of application for accreditation

- (1) The Scheme Administrator may refuse an application for accreditation as an abatement certificate provider in respect of an activity if:
 - (a) the Scheme Administrator is not satisfied that the applicant is eligible for accreditation as an abatement certificate provider in respect of the activity concerned, or
 - (b) the application for accreditation is not duly made (including if it is not accompanied by any required information or the appropriate fee), or
 - (c) the applicant fails to give the Scheme Administrator an undertaking required to be given in connection with the application under this Division in terms satisfactory to the Scheme Administrator.
- (2) If the Scheme Administrator refuses an application for accreditation as an abatement certificate provider, the Scheme Administrator must advise the applicant in writing of the grounds on which the application was refused.

73HC Suspension or cancellation of accreditation

- (1) The Scheme Administrator may suspend or cancel the accreditation of a person as an abatement certificate provider in respect of an activity on any of the following grounds:
 - (a) the Scheme Administrator is satisfied that the person has ceased to be eligible for accreditation as an abatement certificate provider in respect of the activity,
 - (b) the person has requested the suspension or cancellation,
 - (c) the Scheme Administrator is satisfied that the person has contravened a provision of the Act, the regulations, the greenhouse gas benchmark rules or a condition to which the accreditation is subject,

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
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- (d) the person has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit,
 - (e) the person is a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed.
- (2) If the Scheme Administrator suspends or cancels the accreditation of a person, the Scheme Administrator is required to notify the person in writing of the suspension or cancellation and the grounds on which the accreditation is suspended or cancelled.
- (3) A suspension or cancellation takes effect when notice of the suspension or cancellation is served on the person by the Scheme Administrator, or on such later date as may be specified by the Scheme Administrator in the notice.

Division 4 Prescribed conditions of accreditation

73I Conditions of accreditation

For the purposes of section 97DD (1) (a) of the Act, it is a condition of the accreditation of a person as an abatement certificate provider that the person does not contravene any of the provisions of this Division.

73IA Claiming benefits under other schemes

An accredited abatement certificate provider must not contravene any undertaking, of a kind referred to in clause 73HA, given to the Scheme Administrator in connection with the person's application for accreditation.

73IB Commonwealth renewable energy scheme

- (1) An accredited abatement certificate provider in respect of an electricity generation activity must not create an abatement certificate in respect of output for which it has already created a renewable energy certificate, subject to the greenhouse gas benchmark rules.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Schedule 1

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- (2) If an accredited abatement certificate provider in respect of an electricity generation activity is accredited as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system used in connection with that electricity generation activity, the provider must provide to the Scheme Administrator such information, authorities (such as release forms) or other assistance that the Scheme Administrator may, by notice in writing to the person, require for the purpose of obtaining from ORER, or substantiating, information relating to the following:
- (a) any renewable energy certificates the provider has created during any period,
 - (b) the Commonwealth renewable energy scheme baseline of the accredited power station.
- (3) If an accredited abatement certificate provider in respect of an electricity generation activity obtains, at any time after accreditation, accreditation as an accredited power station under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth in respect of the generating system used in connection with that electricity generation activity, the provider must disclose that fact to the Scheme Administrator within 21 days of becoming accredited under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

73IC Category A electricity generation activities

- (1) An accredited abatement certificate provider in respect of a category A electricity generation activity must provide such information and assistance to the Scheme Administrator as the Scheme Administrator, by notice in writing to the accredited abatement certificate provider, may require for the purpose of estimating the Commonwealth renewable energy baseline of a power station that supplies electricity to the provider.
- (2) An accredited abatement certificate provider in respect of a category A electricity generation activity must notify the Scheme Administrator in writing of any change to the power purchase agreement (including any termination of that agreement) that gives rise to the provider's entitlement to accreditation in respect of a category A electricity generation activity within 21 days after that change occurs.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Schedule 1 Amendments

73ID Carbon sequestration activity to be maintained

An accredited abatement certificate provider who creates an abatement certificate in respect of a carbon sequestration activity must ensure the continued storage, by means of planted forests on eligible land, of the quantity of carbon dioxide stored by the activity in respect of which the certificate is created (calculated in accordance with the greenhouse gas benchmark rules) for a period of 100 years after the certificate is created.

73IE Retail suppliers of elective participants to be notified to Scheme Administrator

- (1) An accredited abatement certificate provider in respect of a large user abatement activity must notify the Scheme Administrator in writing if the provider enters into any agreement or arrangement to purchase electricity from a retail supplier that has not already been notified to the Scheme Administrator.
- (2) The notification must be given to the Scheme Administrator within 21 days after entering into the agreement or arrangement.

73IF Record keeping

- (1) An accredited abatement certificate provider in respect of an electricity generation activity must keep a record of the following:
 - (a) the amount of electricity supplied by the generating system,
 - (b) the type of fuel or fuels used by the generating system to generate electricity,
 - (c) the source of the fuel or fuels,
 - (d) the amount of each fuel used by the generating system to generate electricity.
- (2) An accredited abatement certificate provider in respect of a carbon sequestration activity must keep a record of the following:
 - (a) the location and size of any eligible land owned or controlled from time to time by the person,

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Schedule 1

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- (b) any carbon sequestration rights held in respect of any other eligible land from time to time,
 - (c) any activity conducted on land referred to in subclause (2) (a) or (b) that is likely to result in a reduction in the greenhouse gas emissions abated by the planted forests on that land, including any clearing of that land.
 - (3) An accredited abatement certificate provider in respect of a demand side abatement activity must keep a record of the following:
 - (a) the location in which the activity occurred,
 - (b) the abatement of greenhouse gases (calculated in accordance with the greenhouse gas benchmark rules) associated with that activity,
 - (c) the methodology, data and assumptions used to calculate that abatement,
 - (d) if the activity relates to the on-site generation of electricity, the matters referred to in subclause (1).
 - (4) An accredited abatement certificate provider in respect of a large user abatement activity must keep a record of the following:
 - (a) the location in which the activity occurred,
 - (b) emissions of greenhouse gases associated with that activity,
 - (c) the abatement of greenhouse gases (calculated in accordance with the greenhouse gas benchmark rules) associated with that activity,
 - (d) the methodology, data and assumptions used to calculate that abatement.
 - (5) An accredited abatement certificate provider must keep such other records as the Scheme Administrator, by notice in writing to the accredited abatement certificate provider, requires the accredited abatement certificate provider to keep.
 - (6) Subclause (1) does not apply to an accredited abatement certificate provider in respect of a category A electricity generation activity, but subclause (5) applies.
-

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Schedule 1 Amendments

- (7) A record required to be kept by a person by or under this clause must be retained by the person for at least 6 years after the record is made.
- (8) Records are to be kept in a form and manner approved by the Scheme Administrator.
- (9) In this clause:
 - carbon sequestration right* has the meaning given by the greenhouse gas benchmark rules.
 - clearing* of land means:
 - (a) cutting down, felling, thinning, logging or removing any trees on the land, or
 - (b) killing, destroying, poisoning, ringbarking, uprooting or burning trees on the land, or
 - (c) substantially damaging or injuring trees on the land in any other way.

73IG Co-operation with audits

- (1) An accredited abatement certificate provider must provide such information and assistance as is necessary to comply with any audit conducted under Division 8.
- (2) Without limiting subclause (1), an accredited abatement certificate provider must provide such access to premises as is necessary to comply with any schedule or timetable of audits agreed to by the accredited abatement certificate provider (whether before or after accreditation).

Division 5 Imposition of conditions by Scheme Administrator

73J Imposition of conditions by Scheme Administrator

- (1) If the Scheme Administrator intends to impose a condition on the accreditation of a person as an accredited abatement certificate provider under section 97DD (1) (b) of the Act (including any condition of a kind referred to in section 97DD (3) of the Act), either at the time of accreditation or any

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
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time during the period in which the accreditation remains in force, the Scheme Administrator must give notice in writing of that fact to the person on whom the condition is to be imposed.

- (2) The condition takes effect on the date on which the notice is given to the person, or a later date specified in the notice, subject to subclause (3).
- (3) In the case of a condition to be imposed at the time of accreditation, the condition does not take effect until the date on which the person is accredited as an abatement certificate provider.
- (4) The Scheme Administrator may, at any time by notice in writing given to a person, revoke or vary a condition imposed on the accreditation of the person by the Scheme Administrator.
- (5) If the Scheme Administrator imposes or varies a condition of accreditation of a person, the Scheme Administrator must advise the person in writing of the reasons for the decision to impose or vary the condition.

73JA Financial assurances

- (1) This clause applies if the Scheme Administrator imposes a condition on the accreditation of a person as an accredited abatement certificate provider requiring the person to provide a financial assurance to the Scheme Administrator to secure or guarantee the person's compliance with any order that may be made against the person under section 97EF of the Act.
- (2) The amount of any financial assurance required by the Scheme Administrator is to be determined by the Scheme Administrator having regard to the following:
 - (a) the activities in respect of which the person is accredited or to be accredited,
 - (b) the number of abatement certificates that the person has created or is likely to create,
 - (c) the frequency of audits conducted or to be conducted in respect of the person,
 - (d) any other matters the Scheme Administrator considers relevant.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
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Schedule 1 Amendments

- (3) A financial assurance is to be in such form as the Scheme Administrator considers appropriate (such as a bank guarantee or bond).
- (4) A financial assurance provided to the Scheme Administrator may be claimed or realised by the Scheme Administrator only if:
 - (a) an order is made against the person under section 97EF of the Act, and
 - (b) the person who gave the financial assurance fails to comply with the order.
- (5) The Scheme Administrator must give to the person who provided the financial assurance written notice of its intention to make a claim on or realise the financial assurance (or any part of it) at least 21 days before doing so.
- (6) The maximum amount that the Scheme Administrator may claim or recover under the financial assurance is the compliance cost in respect of the person's failure to comply with the order under section 97EF of the Act.
- (7) For the purposes of this clause, the *compliance cost* in respect of a person's failure to comply with an order under section 97EF of the Act is to be determined by the Scheme Administrator by multiplying the number of certificates that the person failed to surrender in compliance with the order by the market value of those certificates at the time that the financial assurance is claimed on or realised.

Division 6 Creation of abatement certificates

73K Form of abatement certificates

- (1) Abatement certificates are to be created in a form approved by the Scheme Administrator.
- (2) Each abatement certificate is to include the following:
 - (a) a statement of the activity in respect of which the abatement certificate is created, including any information relating to that activity that the Scheme

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Administrator, by notice in writing to an accredited abatement certificate provider, requires to be included in the certificate,

- (b) the year in which the activity took place,
- (c) the name of the person who created the certificate.

73KA Determination of baseline

The Scheme Administrator may determine, in accordance with the greenhouse gas benchmark rules, a baseline for the activities of a person in respect of which an abatement certificate provider is entitled to create certificates.

Note. Baselines may be used to determine the activities in respect of which abatement certificates may be created under the greenhouse gas benchmark rules.

73KB Activities that take place before accreditation

- (1) An accredited abatement certificate provider is not entitled to create an abatement certificate in respect of an activity that took place before accreditation was granted by the Scheme Administrator.
- (2) Subclause (1) does not apply in respect of activities that take place in the year 2003.
- (3) In the year 2003, an accredited abatement certificate provider is not entitled to create an abatement certificate in respect of an activity that took place before 1 January 2003.
- (4) For avoidance of doubt, any regulations or greenhouse gas benchmark rules made under section 97EC (3) of the Act apply in respect of this clause.

Note. Section 97EC (3) of the Act allows the regulations and greenhouse gas benchmark rules to specify when an activity is considered to have taken place for the purposes of Part 8A of the Act.

73KC Registration of creation of certificate

- (1) An application for registration of the creation of an abatement certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.
- (2) The application is to be accompanied by a fee of \$0.15 for each certificate created.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
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Schedule 1 Amendments

- (3) The Scheme Administrator may refuse an application for registration of the creation of an abatement certificate on any of the following grounds:
- (a) the applicant is not an accredited abatement certificate provider or the accreditation of the person as an abatement certificate provider is suspended at the time of application,
 - (b) the application for registration was not duly made (including if it is not accompanied by the appropriate fee),
 - (c) the Scheme Administrator is not satisfied that the applicant was entitled to create an abatement certificate in respect of the activity,
 - (d) the Scheme Administrator is of the opinion that the accredited abatement certificate provider who created the certificate has contravened a provision of the Act, the regulations, the greenhouse gas benchmark rules or the conditions of the provider's accreditation.
- (4) If the Scheme Administrator refuses an application for registration of the creation of an abatement certificate, the Scheme Administrator must notify the applicant in writing of the reasons for the determination.

73KD Order requiring surrender of abatement certificates

- (1) This clause applies if an order is made or is proposed to be made under section 97EF of the Act against a person who has been found guilty of an offence against section 97DD (5) of the Act, being an offence that arose as a result of the following:
- (a) the person contravening a condition referred to in clause 73IA (relating to undertakings given to the Scheme Administrator in connection with benefits under mandatory greenhouse gas schemes),
 - (b) the person contravening a condition referred to in clause 73IB (1) (relating to the creation of abatement certificates in respect of output for which a renewable energy certificate has already been created),

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

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Schedule 1

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- (c) the person contravening a condition referred to in clause 73ID (relating to maintenance of carbon sequestration).
 - (2) For the purposes of section 97EF (4) of the Act, the number of certificates to be surrendered under the order is to be determined by the Scheme Administrator as follows:
 - (a) in a case referred to in subclause (1) (a)—the number that is equivalent to the number of abatement certificates that, in the opinion of the Scheme Administrator, were created in respect of output or greenhouse gas abatement for which a benefit was obtained under a mandatory greenhouse gas scheme,
 - (b) in a case referred to in subclause (1) (b)—the number that is equivalent to the number of abatement certificates that, in the opinion of the Scheme Administrator, were created by the person in contravention of the condition referred to in subclause (1) (b),
 - (c) in a case referred to in subclause (1) (c)—the number of abatement certificates that, in the opinion of the Scheme Administrator, were created by the person in respect of carbon sequestration activities and in respect of which the person has contravened the condition referred to in subclause (1) (c).

Division 7 Transfer of certificates

73L Entitlement to create transferable abatement certificates

- (1) Transferable abatement certificates may be created in respect of the following activities:
 - (a) electricity generation activities,
 - (b) carbon sequestration activities,
 - (c) demand side abatement activities.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Schedule 1 Amendments

- (2) Any person (including a large user) who is an accredited abatement certificate provider in respect of an activity referred to in subclause (1) may create a transferable abatement certificate in respect of that activity in accordance with the Act, this Regulation and the greenhouse gas benchmark rules.

73LA Entitlement to create non-transferable abatement certificates

- (1) Non-transferable abatement certificates may be created in respect of large user abatement activities.
- (2) An accredited abatement certificate provider in respect of a large user abatement activity may create a non-transferable abatement certificate in respect of that activity in accordance with the Act, this Regulation and the greenhouse gas benchmark rules.

73LB Registration of transfers of certificates

- (1) An application for registration of the transfer of an abatement certificate is to be made to the Scheme Administrator in the form and manner approved by the Scheme Administrator.
- (2) The Scheme Administrator may refuse an application for registration of the transfer of an abatement certificate on any of the following grounds:
 - (a) the application for registration is not duly made,
 - (b) the Scheme Administrator is of the opinion that the proposed transfer of the abatement certificate contravenes the Act, the regulations or the greenhouse gas benchmark rules.

Note. If the abatement certificate is a non-transferable abatement certificate, the Scheme Administrator must refuse an application for registration of a transfer of the certificate unless the transfer is associated with the sale of the business of the transferor to the transferee or the Scheme Administrator is otherwise authorised to register the transfer. See section 97FB of the Act.

- (3) If the Scheme Administrator refuses an application for registration of the transfer of an abatement certificate, the Scheme Administrator must notify the applicant in writing of the reasons for the determination.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Amendments

Schedule 1

73LC Register of accredited abatement certificate providers

- (1) The register of accredited abatement certificate providers is to include the following information (in addition to the information specified in section 97GA of the Act):
 - (a) the activity or activities in respect of which the accredited abatement certificate provider is accredited as an abatement certificate provider,
 - (b) the total number of abatement certificates created by the accredited abatement certificate provider in respect of each of those activities and registered in the register of abatement certificates in the previous financial year,
 - (c) the States or Territories in which those activities took place,
 - (d) such other information relating to the person's accreditation as the Scheme Administrator considers appropriate.
- (2) The register of accredited abatement certificate providers is to include the following information in relation to a person whose accreditation as an abatement certificate provider is suspended or cancelled:
 - (a) the name of the person,
 - (b) the type of certificates (that is, transferable or non-transferable) the person was formerly entitled to create under the terms of the person's accreditation,
 - (c) the reason or reasons why the accreditation was suspended or cancelled,
 - (d) the date on which the accreditation was suspended or cancelled and, in the case of a suspension, the period of the suspension,
 - (e) any conditions of accreditation that continue to have effect in respect of the person.
- (3) The following information is to be made available for public inspection under section 97GA of the Act (in addition to the information referred to in section 97GA (4) of the Act):
 - (a) the information referred to in subclause (1) (c),
 - (b) the information referred to in subclause (2).

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Schedule 1 Amendments

**Division 8 Audits of accredited abatement certificate
providers**

73M Audits

- (1) The Tribunal or the Scheme Administrator may at any time conduct or require audits to be conducted of accredited abatement certificate providers in relation to the following matters:
 - (a) the creation of abatement certificates,
 - (b) eligibility for accreditation,
 - (c) compliance with any conditions of accreditation.
- (2) An audit may be conducted for the purpose of:
 - (a) substantiating information provided to the Tribunal or Scheme Administrator, or
 - (b) determining whether the provider has complied with the Act, the regulations, the greenhouse gas benchmark rules or the conditions of the provider's accreditation.
- (3) In the case of an audit required by the Tribunal, the Tribunal may require the audit to be conducted by:
 - (a) a person nominated by the Tribunal, or
 - (b) a person chosen by the accredited abatement certificate provider from a panel of persons nominated by the Tribunal, or
 - (c) a person nominated by the accredited abatement certificate provider and approved by the Tribunal.
- (4) In the case of an audit required by the Scheme Administrator, the Scheme Administrator may require the audit to be conducted by:
 - (a) a person nominated by the Scheme Administrator, or
 - (b) a person chosen by the accredited abatement certificate provider from a panel of persons nominated by the Scheme Administrator, or
 - (c) a person nominated by the accredited abatement certificate provider and approved by the Scheme Administrator.

Electricity Supply (General) Amendment (Greenhouse Gas Abatement
Certificate Scheme) Regulation 2003

Amendments

Schedule 1

- (5) An approved auditor is to conduct an audit in accordance with the directions (if any) of the Tribunal or Scheme Administrator.

73MA Impersonating approved auditor

A person must not impersonate an approved auditor.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units,
- (b) in the case of an individual—100 penalty units.

Division 9 Miscellaneous

73N Reviews

For the purposes of section 97I (2) (d) of the Act, the following decisions are prescribed:

- (a) a decision of the Scheme Administrator to impose or vary a condition of accreditation of an accredited abatement certificate provider,
- (b) a decision of the Scheme Administrator to make a claim on or realise any financial assurance provided by an accredited abatement certificate provider.

Note. This clause allows the decisions referred to above to be reviewed by the Administrative Decisions Tribunal.

[3] Clause 120 Service of documents

Omit “a service provider or supplier” wherever occurring.

Insert instead “an applicant for accreditation as an accredited abatement certificate provider, an accredited abatement certificate provider, a service provider or a supplier”.

[4] Clause 120

Omit “the service provider or supplier”.

Insert instead “the applicant, accredited abatement certificate provider, service provider or supplier”.

Home Building Amendment (Penalty Notice Offences) Regulation 2003

under the

Home Building Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to prescribe the offences created by section 5 of the *Home Building Act 1989* as offences for which penalty notices may be issued under section 138A of that Act.

This Regulation also removes an obsolete provision in the *Home Building Regulation 1997* concerning short descriptions of offences for which penalty notices may be issued.

This Regulation is made under the *Home Building Act 1989*, including sections 138A and 140 (the general power to make regulations).

Clause 1 Home Building Amendment (Penalty Notice Offences) Regulation 2003

Home Building Amendment (Penalty Notice Offences) Regulation 2003

1 Name of Regulation

This Regulation is the *Home Building Amendment (Penalty Notice Offences) Regulation 2003*.

2 Amendment of Home Building Regulation 1997

The *Home Building Regulation 1997* is amended as set out in Schedule 1.

Home Building Amendment (Penalty Notice Offences) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 67 Penalty notice offences

Omit “Column 3” from clause 67 (b). Insert instead “Column 2”.

[2] Clause 68 Short description of offences

Omit the clause.

[3] Schedule 4 Penalty notice offences

Omit “(Clauses 67 and 68)”.

Insert instead “(Clause 67)”.

[4] Schedule 4

Omit Column 2 (including all headings to, and all matter in, the Column) and renumber Column 3 as Column 2.

[5] Schedule 4

Insert in Column 1 (in numerical order of section number) and Column 2 (as renumbered), respectively:

Section 5 (1)	\$250
Section 5 (2)	\$250



Home Building Amendment (Review of Disciplinary Action) Regulation 2003

under the

Home Building Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Home Building Regulation 1997* to allow persons aggrieved by certain decisions as to disciplinary action to apply to the Administrative Decisions Tribunal for a review of the decision concerned.

This Regulation is made under the *Home Building Act 1989*, including section 83B and section 140 (the general regulation-making power).

Clause 1 Home Building Amendment (Review of Disciplinary Action) Regulation 2003

Home Building Amendment (Review of Disciplinary Action) Regulation 2003

under the

Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building Amendment (Review of Disciplinary Action) Regulation 2003*.

2 Amendment of Home Building Regulation 1997

The *Home Building Regulation 1997* is amended as set out in Schedule 1.

Home Building Amendment (Review of Disciplinary Action) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

Clause 58A

Insert after clause 58:

58A Review by Administrative Decisions Tribunal

- (1) For the purposes of section 83B (3) (b) of the Act, the following decisions of the Director-General under Part 4 of the Act are prescribed:
 - (a) a decision to vary an authority by imposing a condition on the authority,
 - (b) a decision to suspend an authority (other than a contractor licence),
 - (c) a decision to cancel an authority (other than a contractor licence),
 - (d) a decision to disqualify the holder of an authority from being:
 - (i) the holder of an authority, or
 - (ii) a member of a partnership, or an officer of a corporation that is a member of a partnership, that is the holder of an authority, or
 - (iii) an officer of a corporation that is the holder of an authority.

Note. Section 83B (3) (a) of the Act provides for review by the Administrative Decisions Tribunal of a decision to impose a penalty or to cancel or suspend a contractor licence.

- (2) In this clause, *authority* has the same meaning as it has in section 55 of the Act.
- (3) Subclause (1) extends to any such decision made before the commencement of the subclause (but not before the commencement of section 83B (3) of the Act as substituted by the *Home Building Legislation Amendment Act 2001*).



Home Building (Miscellaneous Amendments) Regulation 2003

under the

Home Building Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Home Building Act 1989*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to make amendments to the *Home Building Regulation 1997* with respect to certain terminology, following corresponding amendments to the *Home Building Act 1989* that have been made by the *Licensing and Registration (Uniform Procedures) Act 2002*.

This Regulation is made under the *Home Building Act 1989*, including section 140 (the general power to make regulations).

Clause 1 Home Building (Miscellaneous Amendments) Regulation 2003

Home Building (Miscellaneous Amendments) Regulation 2003

under the

Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building (Miscellaneous Amendments) Regulation 2003*.

2 Amendment of Home Building Regulation 1997

The *Home Building Regulation 1997* is amended as set out in Schedule 1.

Home Building (Miscellaneous Amendments) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] The whole Regulation

Omit “electrical work”, “endorsed licence”, “a permit”, “registration certificate” and “registration certificates” wherever occurring.

Insert instead “electrical wiring work”, “endorsed contractor licence”, “an owner-builder permit”, “tradesperson certificate” and “tradesperson certificates”, respectively.

[2] Clause 3 Definitions

Omit “supervisor or registration” from the definition of *authority* in clause 3 (1).

[3] Clause 3 (1), definition of “certificate”

Insert in alphabetical order:

certificate means a supervisor certificate or tradesperson certificate.

[4] Part 4, heading

Insert “owner-builder” before “permits”.

[5] Clause 20 Requirements for obtaining certificates

Omit “certificate of registration” from clause 20 (3).

Insert instead “tradesperson certificate”.

[6] Clause 28 Tradesperson certificates

Omit “certificate of registration”. Insert instead “tradesperson certificate”.

[7] Clause 32 Duplicates

Insert “owner-builder” before “permit” wherever occurring.

[8] Clause 35 Refund of fees

Insert “owner-builder” before “permit” wherever occurring.

Home Building (Miscellaneous Amendments) Regulation 2003

Schedule 1 Amendments

[9] Clause 48 Period of cover

Insert “under an owner-builder permit” after “owner-builder work” in clause 48 (3).

[10] Clause 58 Register

Omit “*Registration Certificates*” from clause 58 (c).

Insert instead “*Tradesperson Certificates*”.

[11] Clause 58 (c) (xii)

Omit “registration”.

[12] Clause 58 (d) (xiii)

Omit “owner-builder”.

[13] Schedule 2 Application fees

Omit “**Certificate of registration**”.

Insert instead “**Tradesperson certificate**”.

[14] Schedule 2

Insert “**owner-builder**” before “**permit**” where secondly occurring.



Motor Dealers Amendment (Fees) Regulation 2003

under the

Motor Dealers Act 1974

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Dealers Act 1974*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Motor Dealers Regulation 1999* in connection with the application to licences under the *Motor Dealers Act 1974* of the *Licensing and Registration (Uniform Procedures) Act 2002*. In particular, this Regulation sets out the various fees payable in connection with such licences and omits an obsolete provision.

This Regulation is made under the *Motor Dealers Act 1974*, including section 57 (the general power to make regulations) and sections 12 and 20.

Clause 1 Motor Dealers Amendment (Fees) Regulation 2003

Motor Dealers Amendment (Fees) Regulation 2003

under the

Motor Dealers Act 1974

1 Name of Regulation

This Regulation is the *Motor Dealers Amendment (Fees) Regulation 2003*.

2 Commencement

This Regulation commences on 28 February 2003.

3 Amendment of Motor Dealers Regulation 1999

The *Motor Dealers Regulation 1999* is amended as set out in Schedule 1.

Motor Dealers Amendment (Fees) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clauses 60 and 61

Omit the clauses. Insert instead:

60 Fees

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 1.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2, 3, 4 and 5 of Schedule 1 in relation to that fee.
- (3) An amount specified in relation to an application fee in Column 2 of Schedule 1 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Director-General in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

- (4) If payment of an amount specified in relation to an annual fee in Column 2 of Schedule 1 under the heading **Processing component** is made by means of electronic communication (within the meaning of the *Licensing and Registration (Uniform Procedures) Act 2002*), the fee otherwise payable:
 - (a) is to be reduced by \$5, or
 - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,

whichever results in the greater reduction.

- (5) For the purposes of section 39 (3) of the Act, the proportions in which fees for dealers' licences and car market operators' licences are to be distributed between the Motor Dealers Compensation Fund and the Consolidated Fund are as set out in Column 5 of Schedule 1 (in relation to the Compensation Fund) and Columns 2, 3 and 4 of Schedule 1 (in relation to the Consolidated Fund), respectively.

Motor Dealers Amendment (Fees) Regulation 2003

Schedule 1 Amendments

61 Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in such a manner that sections 24 (2) and 25 of that Act do not apply in relation to a licence.

[2] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Fees

(Clause 60)

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting or restoration of dealer's licence (general)	\$150	nil	\$227 per place of business	\$649 per place of business
Annual fee under section 20 (1) of the Act for dealer's licence (general)	\$50	nil	\$227 per place of business	\$94 per place of business
Application fee for granting or restoration of dealer's licence (motor cycles)	\$150	nil	\$227 per place of business	\$649 per place of business
Annual fee under section 20 (1) of the Act for dealer's licence (motor cycles)	\$50	nil	\$227 per place of business	\$94 per place of business

Motor Dealers Amendment (Fees) Regulation 2003

Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting or restoration of dealer's licence (caravans)	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (caravans)	\$50	nil	\$227 per place of business	nil
Application fee for granting or restoration of dealer's licence (trailers)	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (trailers)	\$50	nil	\$227 per place of business	nil
Application fee for granting or restoration of dealer's licence (commercial vehicles)	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for dealer's licence (commercial vehicles)	\$50	nil	\$227 per place of business	nil

Motor Dealers Amendment (Fees) Regulation 2003

Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Application fee for granting or restoration of car market operator's licence	\$150	nil	\$227 per place of business	\$649 per place of business
Annual fee under section 20 (1) of the Act for car market operator's licence	\$50	nil	\$227 per place of business	\$94 per place of business
Application fee for granting or restoration of auto dismantler's licence	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for auto dismantler's licence	\$50	nil	\$227 per place of business	nil
Application fee for granting or restoration of wholesaler's licence	\$150	nil	\$227 per place of business	nil

Motor Dealers Amendment (Fees) Regulation 2003

Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Annual fee under section 20 (1) of the Act for wholesaler's licence	\$50	nil	\$227 per place of business	nil
Application fee for granting or restoration of motor vehicle parts reconstructor's licence	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for motor vehicle parts reconstructor's licence	\$50	nil	\$227 per place of business	nil
Application fee for granting or restoration of motor vehicle consultant's licence	\$150	nil	\$227 per place of business	nil
Annual fee under section 20 (1) of the Act for motor vehicle consultant's licence	\$50	nil	\$227 per place of business	nil

Motor Dealers Amendment (Fees) Regulation 2003

Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4	Column 5
Nature of fee payable	Processing component	Fixed component	Variable component	Compensation Fund contribution
Late fee under section 20 (6) of the Act	nil	\$45	nil	nil
Application fee for replacement of licence	\$23	nil	nil	nil
Issue of certificate under section 18 of the Act	nil	\$18	nil	nil



Pawnbrokers and Second-hand Dealers Amendment (Fees) Regulation 2003

under the

Pawnbrokers and Second-hand Dealers Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Pawnbrokers and Second-hand Dealers Act 1996*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Pawnbrokers and Second-hand Dealers Regulation 1997* in connection with the application to licences under the *Pawnbrokers and Second-hand Dealers Act 1996* of the uniform licensing procedures of the *Licensing and Registration (Uniform Procedures) Act 2002*. In particular, this Regulation sets out the various fees payable in connection with a licence and omits a number of obsolete provisions.

This Regulation is made under the *Pawnbrokers and Second-hand Dealers Act 1996*, including section 43 (the general power to make regulations).

Clause 1 Pawnbrokers and Second-hand Dealers Amendment (Fees)
Regulation 2003

Pawnbrokers and Second-hand Dealers Amendment (Fees) Regulation 2003

under the

Pawnbrokers and Second-hand Dealers Act 1996

1 Name of Regulation

This Regulation is the *Pawnbrokers and Second-hand Dealers Amendment (Fees) Regulation 2003*.

2 Commencement

This Regulation commences on 28 February 2003.

3 Amendment of Pawnbrokers and Second-hand Dealers Regulation 1997

The *Pawnbrokers and Second-hand Dealers Regulation 1997* is amended as set out in Schedule 1.

Pawnbrokers and Second-hand Dealers Amendment (Fees)
Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 7A

Insert after clause 7:

7A Fees

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 3.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2 and 3 of Schedule 3 in relation that fee.
- (3) An amount specified in relation to an application in Column 2 of Schedule 3 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Director-General in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

[2] Clauses 8, 9, 9A, 10, 11, 27 and 29

Omit the clauses. Insert instead:

8 Unique identifier for combined licence

Despite section 20 (3) (b) (i) of the *Licensing and Registration (Uniform Procedures) Act 2002*, the same unique identifier may relate to a pawnbroker's licence and second-hand dealer's licence that are both contained in the same document, as referred to in section 20 (5) of that Act.

[3] Clause 21 Penalty notice offences and demerit points

Omit clause 21 (1), (5), (6) and (7).

[4] Clause 27A Carrying on of business in partnership

Omit "clauses 8 and 9A" from clause 27A (1).

Insert instead "items 1–4 of Schedule 3".

[5] Schedule 2 Penalty notice offences and demerit points

Omit Column 2 of Schedule 2.

Page 3

Pawnbrokers and Second-hand Dealers Amendment (Fees)
Regulation 2003

Schedule 1 Amendments

[6] Schedule 3

Insert after Schedule 2:

Schedule 3 Fees

(Clause 7A)

Column 1	Column 2	Column 3
Nature of fee payable	Processing component	Fixed component
Application fee for granting of licence	\$130	\$230
Application fee for renewal of licence	\$30	\$230
Application fee for restoration of licence	\$30	\$251
Application fee for replacement of licence	\$20	nil
Application fee for extract of register (per entry)	nil	\$11



Travel Agents Amendment (Fees) Regulation 2003

under the

Travel Agents Act 1986

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Travel Agents Act 1986*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Travel Agents Regulation 2001* in connection with the application to licences under the *Travel Agents Act 1986* of the uniform licensing provisions of the *Licensing and Registration (Uniform Procedures) Act 2002*. In particular, this Regulation sets out the various fees payable in connection with such a licence, and omits a number of obsolete provisions.

This Regulation is made under the *Travel Agents Act 1986*, including section 57 (the general power to make regulations) and sections 10, 15 and 17.

Clause 1 Travel Agents Amendment (Fees) Regulation 2003

Travel Agents Amendment (Fees) Regulation 2003

under the

Travel Agents Act 1986

1 Name of Regulation

This Regulation is the *Travel Agents Amendment (Fees) Regulation 2003*.

2 Commencement

This Regulation commences on 28 February 2003.

3 Amendment of Travel Agents Regulation 2001

The *Travel Agents Regulation 2001* is amended as set out in Schedule 1.

Travel Agents Amendment (Fees) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clauses 7 and 8

Omit the clauses. Insert instead:

7 Fees

- (1) The fees payable for the purposes of the Act are listed in Column 1 of Schedule 2.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 2, 3, and 4 of Schedule 2 in relation to that fee.
- (3) An amount specified in relation to an application fee in Column 2 of Schedule 2 under the heading **Processing component** is taken to be a fee to cover the costs incurred by the Director-General in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*.

- (4) If payment of an amount specified in relation to an annual fee in Column 2 of Schedule 1 under the heading **Processing component** is made by means of electronic communication (within the meaning of the *Licensing and Registration (Uniform Procedures) Act 2002*), the fee otherwise payable:
 - (a) is to be reduced by \$5, or
 - (b) is to be reduced by 10 per cent, and rounded to the nearest whole dollar,

whichever results in the greater reduction.

- (5) A reference in Schedule 2 to a **principal partner** or **ordinary partner**, in relation to an licence application fee or annual fee, is a reference to an individual or corporation who is designated as such on the application or licence concerned.

8 Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in such a manner that sections 24 (2) and 25 of that Act do not apply in relation to a licence.

Travel Agents Amendment (Fees) Regulation 2003

Schedule 1 Amendments

[2] Clauses 9, 11, 13, 14 and 15

Omit the clauses.

[3] Schedule 2

Insert after Schedule 1:

Schedule 2 Fees

(Clause 7)

Column 1	Column 2	Column 3	Column 4
Nature of fee payable	Processing component	Fixed component	Variable component
Application fee for granting or restoration of licence (corporation)	\$88	nil	\$300 per place of business
Annual fee under section 17 (1) of the Act (corporation)	\$22	nil	\$300 per place of business
Application fee for granting or restoration of licence (individual, other than partner)	\$88	nil	\$300 per place of business
Annual fee under section 17 (1) of the Act (individual, other than partner)	\$22	nil	\$300 per place of business
Application fee for granting or restoration of licence (individual or corporation, principal partner)	\$88	nil	\$300 per place of business
Annual fee under section 17 (1) of the Act (individual or corporation, principal partner)	\$22	nil	\$300 per place of business
Application fee for granting or restoration of licence (individual or corporation, ordinary partner)	\$66	nil	nil

Travel Agents Amendment (Fees) Regulation 2003

Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4
Nature of fee payable	Processing component	Fixed component	Variable component
Annual fee under section 17 (1) of the Act (individual or corporation, ordinary partner)	nil	nil	nil
Late fee under section 17 (8) of the Act	nil	\$45	nil
Application fee for replacement of licence	\$24	nil	nil
Issue of certificate under section 15 of the Act	nil	\$18	nil

Orders



New South Wales

Food Production (Safety) Exemptions Order 2003

under the

Food Production (Safety) Act 1998

I, the Minister for Agriculture, with the concurrence of the Minister administering the *Food Act 1989* and the Minister administering the *Fisheries Management Act 1994*, and in pursuance of section 69 of the *Food Production (Safety) Act 1998*, make the following Order.

Dated, this 11th day of February 2003.

RICHARD AMERY, M.P.,
Minister for Agriculture

Clause 1 Food Production (Safety) Exemptions Order 2003

Food Production (Safety) Exemptions Order 2003

under the

Food Production (Safety) Act 1998

1 Name of Order

This Order is the *Food Production (Safety) Exemptions Order 2003*.

2 Exemptions

- (1) The holder of a licence under the *Food Production (Seafood Safety Scheme) Regulation 2001* is exempt from each of the following provisions of that Regulation, but only in respect of activities authorised by the licence (other than the culture and harvesting of shellfish) and until the date specified in relation to the provision:
 - (a) clause 12 (to the extent to which it imposes on a licence the premises and vehicle conditions set out in Schedule 1)—1 July 2003,
 - (b) clause 20—1 July 2003.
- (2) Subject to subclause (3), the holder of a licence under the *Food Production (Seafood Safety Scheme) Regulation 2001* is exempt from clause 2 of Schedule 5 to that Regulation in respect of activities authorised by the licence (other than the culture and harvesting of shellfish).
- (3) It is a condition of an exemption specified in subclause (2) that the holder of a licence prepares a food safety program that complies with clause 18 of that Regulation:
 - (a) in relation to those activities authorised by the licence that involve the collection of shellfish, processing of oysters or processing of smoked seafood—by 1 April 2003, and
 - (b) in relation to those activities authorised by the licence that are not referred to in paragraph (a) and to which the exemption relates—by 1 July 2003.

Public Sector Employment and Management (Motor Vehicle Repair Industry Authority) Order 2003

under the

Public Sector Employment and Management Act 2002

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 105 of the *Public Sector Employment and Management Act 2002*, make the following Order.

Dated, this 5th day of February 2003.

By Her Excellency's Command,

BOB CARR, M.P.,
Premier

Clause 1 Public Sector Employment and Management (Motor Vehicle Repair Industry Authority) Order 2003

Public Sector Employment and Management (Motor Vehicle Repair Industry Authority) Order 2003

1 Name of Order

This Order is the *Public Sector Employment and Management (Motor Vehicle Repair Industry Authority) Order 2003*.

2 Commencement

This Order is taken to have commenced on 9 September 2002.

3 Amendment of Schedule 1 to Public Sector Employment and Management Act 2002

Schedule 1 (Departments) to the *Public Sector Employment and Management Act 2002* is amended by inserting in alphabetical order of Departments the following matter:

Motor Vehicle Repair Industry
Authority

General Manager of the Authority

OFFICIAL NOTICES

Appointments

EXHIBITED ANIMALS PROTECTION ACT 1986

Section 6(4)(a)

I, RICHARD AMERY, M.P., Minister for Agriculture, hereby advise that I have reappointed Mr Matthew CRANE to the Exhibited Animals Advisory Committee, pursuant to the provisions of section 6 (4) (a) of the Exhibited Animals Protection Act 1986, for a further three year term of office from 14 January 2003 to 13 January 2006.

RICHARD AMERY, M.P.,
Minister for Agriculture

Date: 28th January 2003.

BANANA INDUSTRY ACT 1987

Banana Industry Committee

Election of Members

IN pursuance of the provisions of section 3 (3) (b) of the Banana Industry Act 1987, the following persons have been elected in an election to fill positions as regional representatives for the Coffs Harbour region and the Richmond/Brunswick region on the Banana Industry Committee:

Mukhtiar Nicky SINGH of Coffs Harbour and
Stephen John BAKER of Yelgun

for a term expiring on 29 September 2005.

Dated this 28th day of January 2003.

RICHARD AMERY, M.P.,
Minister for Agriculture

FAIR TRADING ACT 1987

Fair Trading Advisory Council

Appointment of Chairperson and Members

PURSUANT to section 25B of the Fair Trading Act 1987 and Schedule 4A thereto, I hereby appoint the following persons as members of the Fair Trading Advisory Council:

Margaret HOLE, AM (Chairperson);
Narelle BROWN;
Francis BURGESS, AM;
Karen COX;
Elizabeth CROUCH;
Malcolm GLEDHILL;
Phil MARCHIONNI;
David MATTHEWS;
Shirley MORGAN;
Rodi ORANTIA;
Gail PEARSON;
Gae PINCUS;
Phillippa RUSSELL;
Peter SHEARING; and
George VARUGHESE.

These appointments are made for two years.

Pursuant to Clause 1 of Schedule 4A to the Act, I also hereby appoint Margaret HOLE, AM as Chairperson of the Fair Trading Advisory Council for a period of two years.

Dated this 31st day of January 2003.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

FAIR TRADING ACT 1987

Home Building Advisory Council

Appointment of Chairperson and Members

PURSUANT to section 25K of the Fair Trading Act 1987 and Schedule 4A thereto, I hereby appoint the following persons as members of the Home Building Advisory Council:

Elizabeth CROUCH (Chairperson);
John BYRNE;
Kim CRESTANI;
Sheryl KOTTHOFF;
Penelope HO;
David LAMOND;
Maxine LEESON;
Peter McCLELLAND;
William MEREDITH;
Gisela RAMENSKY;
Salvatore RUSSO;
Ronald SCOTT;
John WORTHINGTON; and
Paul ZAMMIT.

These appointments are made for two years.

Pursuant to Clause 1 of Schedule 4A to the Act, I also hereby appoint Elizabeth CROUCH as Chairperson of the Home Building Advisory Council for a period of two years.

Dated this 31st day of January 2003.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

FAIR TRADING ACT 1987

Motor Trade Advisory Council

Appointment of Chairperson and Members

PURSUANT to section 25E of the Fair Trading Act 1987 and Schedule 4A thereto, I hereby appoint the following persons as members of the Motor Trade Advisory Council:

Francis BURGESS, AM (Chairperson);
Maria ALESSI;
David ALLEN;
Kylie BETTS;
Cherylène BOLMAN;
Ronald BOWDEN;
John DEGEN;
Garry HINGLE;
Marko LAHTINEN;
James McCALL;
Robert McDONALD;

Alick O'HAR;
Maryanne PETERSEN;
Margaret THOMPSON; and
Neil WALKER.

These appointments are made for two years.

Pursuant to Clause 1 of Schedule 4A to the Act, I also hereby appoint Francis BURGESS, AM, as Chairperson of the Motor Trade Advisory Council for a period of two years.

Dated this 31st day of January 2003.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

FAIR TRADING ACT 1987

Property Services Advisory Council

Appointment of Chairperson and Members

PURSUANT to section 25H of the Fair Trading Act 1987 and Schedule 4A thereto, I hereby appoint the following persons as members of the Property Services Advisory Council:

Phillippa RUSSELL (Chairperson);
Mara ASHMORE;
Cristine CASTLE;
Kevin CLAY;
Christopher FITZPATRICK;
Carmen JAUREGUI;
Maria LINDERS;
John McINTYRE;
Judith MAHER;
Sonia MINUTILLO;
Pamela MORGAN;
Eric PRINCE, AM;
Kate VANDERFIELD; and
Donald WRIGHT.

These appointments are made for two years.

Pursuant to Clause 1 of Schedule 4A to the Act, I also hereby appoint Phillippa RUSSELL as Chairperson of the Property Services Advisory Council for a period of two years.

Dated this 31st day of January 2003.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

FAIR TRADING ACT 1987

Retirement Villages Advisory Council

Appointment of Chairperson and Members

PURSUANT to section 25N of the Fair Trading Act 1987 and Schedule 4A thereto, I hereby appoint the following persons as members of the Retirement Villages Advisory Council:

Malcolm GLEDHILL (Chairperson);
Reginald ALLEN;
Shirley BAINS;
David BENTLEY;
Clifford BLAKE, AO;
Kathleen BREWSTER;
Barbara BURNHAM;
Joan CARTER;
John COWLAND;

Geraldine DALEY;
Wendy FISHER;
Ian HILL;
Nick REID;
Paul SADLER; and
Lynne WILKINS.

These appointments are made for two years.

Pursuant to Clause 1 of Schedule 4A to the Act, I also hereby appoint Malcolm GLEDHILL as Chairperson of the Retirement Villages Advisory Council for a period of two years.

Dated this 31st day of January 2003.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

MINES INSPECTION ACT 1901

EXTENSION OF APPOINTMENT OF ACTING INSPECTOR

DEPARTMENT OF MINERAL RESOURCES

HER EXCELLENCY, Professor Marie Bashir, A.C., Governor of New South Wales, with the advice of the Executive Council, pursuant to the provisions of section 32 (1) of the Mines Inspection Act 1901, has appointed RAWDON ANGUS McDOWALL as an Acting Inspector of Mines from 26 March 2003 for a further period of 6 months.

The Hon EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
Minister for Fisheries

MINES INSPECTION ACT 1901

EXTENSION OF APPOINTMENT OF ACTING INSPECTOR

DEPARTMENT OF MINERAL RESOURCES

HER EXCELLENCY, Professor Marie Bashir, A.C., Governor of New South Wales, with the advice of the Executive Council, pursuant to the provisions of section 32 (1) of the Mines Inspection Act 1901, has appointed ROBERT EDWARD KENNEDY as an acting Inspector of Electrical Engineering for a 12 month term commencing from 6 February 2003.

The Hon EDWARD OBEID, OAM, M.L.C.,
Minister for Mineral Resources
Minister for Fisheries

NSW Agriculture

PLANT DISEASES ACT 1924

PROCLAMATION P133

Proclamation to regulate the importation, introduction and bringing into New South Wales of certain plants from Queensland on account of the pest spiraling whitefly.

HER EXCELLENCY PROFESSOR MARIE BASHIR AC,
Governor

I, Professor MARIE BASHIR AC, Governor of the State of New South Wales, with the advice of the Executive Council:

1. (a) in pursuance of section 3(2)(a) of the Plant Diseases Act 1924, revoke Proclamation P66 published in the Government Gazette No. 126 of 28 August 1998 at page 6942; and
- (b) in pursuance of section 4(1) of the Plant Diseases Act 1924 and being of the opinion that any plant from the northern part of Queensland is likely to introduce the pest spiraling whitefly (*Aleurodicus dispersus*) into New South Wales, regulate the importation, introduction or bringing into the outer area of any plant originating from or which has moved through the northern part of Queensland.
2. A plant that originates from or that has moved through the northern part of Queensland may only be brought into New South Wales in accordance with the conditions for entry specified in this Proclamation.

Conditions for entry

Either

- 3.1 The plant within 48 hours before its dispatch has been inspected by an officer of the Queensland Department of Primary Industries and has been found to be free of spiraling whitefly, and is accompanied by a Plant Health Certificate issued by that officer. All plants to 20 plants in a consignment are to be inspected, and where the number of plants is greater than 20 one plant of every 5 plants in excess of 20 is to be inspected for the presence of spiraling whitefly,

OR

- 3.2 The plant within 48 hours before its dispatch has been treated with an insecticide registered by the National Registration Authority for the control of spiraling whitefly, and has been, and is accompanied by:
 - a Plant Health Certificate issued by an officer of the Queensland Department of Primary Industries, or
 - a Plant Health Assurance Certificate;

and where the plant has been dealt with in compliance with post treatment requirements of the *Operational Procedure ICA-35 Inspection and treatment of plants for Spiraling Whitefly*,

OR

- 3.3 The plant is accompanied by a Plant Health Assurance Certificate issued in compliance with *Operational Procedure ICA-36 Property Freedom for Spiraling Whitefly* or by a Plant Health Certificate certifying that the pest is not present on the land on which the plant originates or through which it has been moved.

OR

- 3.4 the plant is accompanied by a Plant Health Assurance Certificate issued in compliance with *Operational Procedure ICA-36 Property Freedom for Spiraling Whitefly* or by a Plant Health Certificate certifying that the pest is not present on the land on which the plant originates or through which it has been moved. A Certificate may not be issued if the area of Queensland so certified is less than 10 kilometres from a place that is infested with the pest.

Definitions

In this Proclamation:

northern part of Queensland means that part of Queensland north of Latitude 22 degrees south.

Pest means the pest spiraling whitefly (*Aleurodicus dispersus*);

Plant includes a potted plant, bare rootstock or cuttings, but excludes flowers fruit and seeds of plants.

Plant Health Assurance Certificate means a Plant Health Assurance Certificate issued by a person authorised by the Queensland Department Primary Industries to issue Plant Health Assurance Certificates, and that certifies that the plant has been inspected has been found to be free of the pest;

Plant Health Certificate means a certificate issued an officer of the Queensland Department of Primary Industries and that certifies that the plant has been inspected and has been found to be free of the pest;

Plant Health Certificate means a Plant Health Certificate issued by an officer of the Queensland Department of Primary Industries.

Note. The New South Wales Department of Agriculture's reference is P133.

For further information contact the New South Wales Department of Agriculture on (02) 6391 3583.

Operational Procedure ICA-35 Inspection and Treatment of Plants for Spiraling Whitefly is published on the internet at <http://www.dpi.qld.gov.au/health/4145.html#35>

Operational Procedure ICA-36 Property Freedom for Spiraling Whitefly is published on the internet at <http://www.dpi.qld.gov.au/health/4145.html#36>

Signed and sealed at Sydney this 5th day of February 2003.

By Her Excellency's Command

RICHARD AMERY, M.P.,
Minister for Agriculture

GOD SAVE THE QUEEN!

PLANT DISEASES ACT 1924

PROCLAMATION

ERRATUM

THE Plant Diseases Act 1924 Proclamation published in the *Government Gazette* of 24 January 2003, Gazette No. 25 on page 459, was published with an error:

The words "PROCLAMATION P132" should have read "PROCLAMATION P135".

NSW Fisheries

F97/290

FISHERIES MANAGEMENT ACT 1994**Section 11 Notification - amendment to fishing closure
Botany Bay and tributaries, including Georges River and Cooks River**

I, Edward Obeid, amend the notification, which prohibits the taking of fish in Botany Bay and tributaries, as published in the New South Wales Government Gazette Number 210 on 8 November 2002.

The notification is amended by inserting Schedule 9, as below, immediately following schedule 8 in the existing notification.

This amendment will be effective from the date of publication.

The Hon Edward Obeid OAM, M.L.C.,
Minister for Mineral Resources
Minister for Fisheries

Schedule 9***Georges River and tributaries – trap closure***

Column 1 <i>Methods</i>	Column 2 <i>Waters</i>
By means of all traps as prescribed by the Regulation.	<u>Salt Pan Creek</u> – all waters upstream of a line drawn commencing at the Henry Lawson Drive road bridge across the creek to the nearest point on the opposite bank. <u>Georges River</u> – all waters upstream of a line drawn generally westerly from the Rabaul Road boat ramp at Georges Hall, including Prospect Creek, Cabramatta Creek and Chipping Norton Lake.

F95/322(2)

FISHERIES MANAGEMENT ACT 1994**Section 8 Notification - Fishing Closure**South-East Trawl Fishery - Trip Limits

I, Edward Obeid, prohibit the taking for sale of those fish species as described in Column 1 of the Schedule to this Notification, for the period shown opposite in Column 2, by the methods of fishing shown opposite in Column 3, from the waters shown opposite in Column 4, except when those fish species are taken in accordance with the trip limit conditions specified in Column 5.

This prohibition will be effective from 1 May 2003 to 30 April 2008, inclusive.

The Hon Edward Obeid OAM, MLC
Minister for Mineral Resources
Minister for Fisheries

SCHEDULE

COLUMN 1 SPECIES	COLUMN 2 PERIOD	COLUMN 3 METHOD	COLUMN 4 WATERS	COLUMN 5 TRIP LIMIT
Gemfish (<i>Rexea solandri</i>).	See NSW Government Gazette No. 59, 19-5-00			
Redfish (<i>Centroberyx affinis</i>).	From 1 November to 31 December and 1 January to 30 June of each year all dates inclusive.	Otter trawl net (fish).	All NSW ocean waters north of Barrenjoey Headland including those waters subject to an OCS agreement between the State and Commonwealth.	No more than 250 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Redfish (<i>Centroberyx affinis</i>).	From 1 July to 31 October of each year, all dates inclusive.	Otter trawl net (fish).	All NS W ocean waters north of Barrenjoey Headland including those waters subject to an OCS agreement between the State and Commonwealth.	No more than 1000 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).

Schedule continued...

COLUMN 1 SPECIES	COLUMN 2 PERIOD	COLUMN 3 METHOD	COLUMN 4 WATERS	COLUMN 5 TRIP LIMIT
Redfish (<i>Centroberyx affinis</i>).	From 1 January to 31 December of each year, all dates inclusive.	Otter trawl net (fish).	All NSW ocean waters south of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 100 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Orange roughy (<i>Hoplostethus atlanticus</i>), smooth oreo dory (<i>Pseudocyttus maculatus</i>), black oreo dory (<i>Allocyttus niger</i>), spiky oreo dory (<i>Neocyttus rhomboidalis</i>) and warty oreo dory (<i>Allocyttus verrucosus</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters including those waters subject to an OCS agreement between the State and the Commonwealth.	0 kg.
Pink ling (<i>Genypterus blacodes</i>), mirror dory (<i>Zenopsis nebulosis</i>), blue-eye trevalla (<i>Hyperoglyphe antarctica</i>), blue grenadier (<i>Macruronus novaezelandiae</i>) and royal red prawns (<i>Haliporoides sibogae</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters west of a line drawn 3 nautical miles east of the coastal baseline.	0 kg.

Schedule continued...

COLUMN 1 SPECIES	COLUMN 2 PERIOD	COLUMN 3 METHOD	COLUMN 4 WATERS	COLUMN 5 TRIP LIMIT
Blue warehou (<i>Seriolella brama</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 100 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Spotted warehou (<i>Seriolella punctata</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 50 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Jackass morwong (<i>Nemadactylus macropterus</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters north of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 50 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Jackass morwong (<i>Nemadactylus macropterus</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters south of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 350 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).

Schedule continued...

COLUMN 1 <i>SPECIES</i>	COLUMN 2 <i>PERIOD</i>	COLUMN 3 <i>METHOD</i>	COLUMN 4 <i>WATERS</i>	COLUMN 5 <i>TRIP LIMIT</i>
Ocean perch (<i>Helicolenus percooides</i>).	From 1 January to 31 March of each year, all dates inclusive.	By all methods.	All NSW ocean waters north of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 500 kg whole weight in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Ocean perch (<i>Helicolenus percooides</i>).	From 1 April to 31 December of each year, all dates inclusive.	By all methods	All NSW ocean waters north of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 1000 kg whole weight of each fish species in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).

COLUMN 1 <i>SPECIES</i>	COLUMN 2 <i>PERIOD</i>	COLUMN 3 <i>METHOD</i>	COLUMN 4 <i>WATERS</i>	COLUMN 5 <i>TRIP LIMIT</i>
Ocean perch (<i>Helicolenus percooides</i>).	From 1 January to 31 December of each year, all dates inclusive.	By all methods.	All NSW ocean waters south of Barrenjoey Headland including those waters subject to an OCS agreement between the State and the Commonwealth.	No more than 300 kg whole weight of each fish species in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).
Tiger flathead (<i>Neoplatycephalus richardsoni</i>), tooth/goldspot flathead (<i>Neoplatycephalus aurimaculatus</i>), sand flathead (<i>Platycephalus bassensis</i>) and yank flathead (<i>Platycephalus speculator</i>).	From 1 January to 31 December of each year all dates inclusive.	By all methods.	All NSW ocean waters south of Barrenjoey Headland including waters 3 nautical miles east of the coastal baselines.	No more than 200 kg whole weight of all flathead species combined in possession on board the fishing vessel once each day or from the time of departure to the time of return to port (when longer than a day).

Department of Land and Water Conservation

Land Conservation

DUBBO OFFICE

Department of Land and Water Conservation
142 Brisbane Street (PO Box 865), Dubbo, NSW 2830
Phone: (02) 6841 5200 Fax: (02) 6841 5231

ROADS ACT 1993

ORDER

ERRATUM

Transfer of a Crown Road to a Council

IN pursuance of the provisions of section 151 Roads Act 1993, the Crown roads specified in Schedule 1 are transferred to the Roads Authority specified in Schedule 2 hereunder as from the date of publication of this notice. The road specified in Schedule 1 ceases to be a Crown road from that date.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation
and Minister for Fair Trading

SCHEDULE 1

The Crown Public Road west of Lot 9, DP 751566, above road intersecting Lot 9 in the Parish of Cuddie and road west of Lot 10, DP 751545, Parish of Back Willoi, County Clyde, Land District of Nyngan.

SCHEDULE 2

Roads Authority: Walgett Shire Council.

File No.: DB02 H 364.

Council's Reference: JM:CB SR 40.

PROPOSED REVOCATION OF DEDICATION OF CROWN LAND FOR A PUBLIC PURPOSE

IT is intended, following the laying of a copy of this notification before each House of Parliament in the State of New South Wales in accordance with section 84 of the Crown Lands Act 1989, to revoke the dedication of Crown Land specified in Schedule 1 hereunder to the extent specified in Schedule 2 with a view to dealing with the land as specified in Schedule 3.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE 1

Land District: Mudgee.

Local Government Area: Mudgee Shire Council.

Dedication No.: 520155.

Notified: 30 January 1901.

Public Purpose: Public school site.

File No.: DB00 H 8/1.

SCHEDULE 2

The whole being Lot 25, DP No. 756909, Parish Toolamanang, County Wellington, of an area of 8322 square metres.

SCHEDULE 3

No longer required for the dedicated purpose. It is proposed to sell the land by way of auction.

GOULBURN OFFICE
Department of Land and Water Conservation
159 Auburn Street (PO Box 748), Goulburn, NSW 2580
Phone: (02) 4828 6725 Fax: (02) 4828 6730

**REVOCATION OF RESERVATION OF CROWN
LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown Land specified in Column 1 of the Schedules hereunder is revoked to the extent specified opposite thereto in Column 2 of the Schedules.

The Hon. JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation
and Minister for Fair Trading

SCHEDULE 1

COLUMN 1

Land District: Bombala.
Shire: Bombala.
Parish: Thoko.
County: Wellesley.
Reserve No.: 77155.
Purpose: From sale
generally.
Date of Notification:
8 October 1954.
File No.: GB89 H 149.

COLUMN 2

Part being Lot 223, DP 1039228
of 86.74 hectares.

SCHEDULE 2

COLUMN 1

Land District: Cooma.
Shire: Snowy River.
Parish: Ingebirah.
County: Wallace.
Reserve No.: 91751.
Purpose: Future public
requirements.
Date of Notification:
7 March 1980.
File No.: GB02 H 205.

COLUMN 2

The whole being Lot 45,
DP 756699 of 119.2 hectares.

GRAFTON OFFICE
Department of Land and Water Conservation
76 Victoria Street (Locked Bag 10), Grafton, NSW 2460
Phone: (02) 6640 2000 Fax: (02) 6640 2035

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedules hereunder are appointed, for the terms of office specified thereunder, as members of the trust boards for the reserve trusts specified opposite thereto in Column 2, which have been established and appointed as trustees of the reserves referred to opposite thereto in Column 3 of the Schedules.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Shane Robert LOVELL (new member), Colin John WALLACE (new member), Rodney Stewart OUTERBRIDGE (re-appointment), Marion Gladys JACKSON (re-appointment), Vicki Nola OUTERBRIDGE (re-appointment).	Meerschaum Vale Hall Trust.	Reserve No.: 90719. Public Purpose: Public hall. Notified: 4 March 1977. File No.: GF79 R 58.

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

SCHEDULE 2

COLUMN 1	COLUMN 2	COLUMN 3
Stephen Raymond MILLER (new member), Margaret June PADDON (re-appointment), William Albert ROBB (re-appointment), Paul Henry ROEGER (re-appointment).	Rous Mill Recreation Reserve Trust.	Reserve No.: 30518. Public Purpose: Public recreation. Notified: 27 January 1900. File No.: GF81 R 365.

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
Graeme Raymond REID (new member), Douglas Raymond REID (re-appointment), Raymond Arthur REID (re-appointment), David Paul STACE (re-appointment), Thomas John DOWNHAM (re-appointment).	Woodenbong War Memorial Reserve Trust.	Reserve No.: 74787. Public Purpose: War Memorial. Notified: 21 March 1952. File No.: GF81 R 279.

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

SCHEDULE 4

COLUMN 1	COLUMN 2	COLUMN 3
The person for the time being holding the office of President, Red Rock- Corindi SLSC (ex-officio member).	Red Rock Public Recreation Reserve Trust.	Reserve No.: 64746. Public Purpose: Resting place and public recreation. Notified: 14 September 1934. File No.: GF81 R 98.

Term of Office

For a term commencing the date of this notice and expiring 18 July 2007.

SCHEDULE 5

COLUMN 1	COLUMN 2	COLUMN 3
Myles Anthony McRAE (new member), Harry Owen WELLER (new member).	Boambee Creek Park Reserve Trust.	Reserve No.: 84835. Public Purpose: Public recreation. Notified: 10 April 1964. File No.: GF81 R 212.

Term of Office

For a term commencing the date of this notice and expiring 3 June 2004.

SCHEDULE 6

COLUMN 1	COLUMN 2	COLUMN 3
Robert Charles JARMAN (new member), Paul William ADAMS (re-appointment), Gordon Leslie PAINTER (re-appointment), Peter John PAINTER (re-appointment).	Cedar Point Public Hall Reserve Trust.	Reserve No.: 58107. Public Purpose: Public hall. Notified: 26 June 1925. File No.: GF81 R 372.

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

SCHEDULE 7

COLUMN 1	COLUMN 2	COLUMN 3
Therese Anne CROLLICK (re-appointment), Dennis Patrick O'CONNOR (re-appointment), Bruce ROSS (re-appointment), Olive Joy LAVERTY (re-appointment), Alan HOSKINS (re-appointment), Sandra Leigh O'CONNOR (re-appointment), Ronald John MARTIN (re-appointment).	Gundurimba Flood Refuge Reserve Trust.	Reserve No.: 38468. Public Purpose: Refuge in time of flood. Notified: 22 October 1904. File No.: GF81 R 21.

Term of Office

For a term commencing 10 July 2003 and expiring 9 July 2008.

SCHEDULE 8

COLUMN 1	COLUMN 2	COLUMN 3
Gillian HANLEY (new member).	Mallanganee Public Hall Trust.	Reserve No.: 83808. Public Purpose: Public recreation and resting place. Notified: 19 April 1962. Dedication No.: 540076. Public Purpose: Public hall. Notified: 4 December 1936. File No.: GF81 R 269.

Term of Office

For a term commencing the date of this notice and expiring 23 April 2007.

SCHEDULE 9

COLUMN 1	COLUMN 2	COLUMN 3
Heather Jean FISHER (new member), Jane Catherine NICHOLS (re-appointment), Graham Arthur SMITH (re-appointment).	Munns Creek Walking Track Reserve Trust.	Reserve No.: 140071. Public Purpose: Environmental protection and public recreation. Notified: 13 December 1991. File No.: GF90 R 41.

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

DISSOLUTION OF RESERVE TRUST

PURSUANT to section 92 (3) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, which was established in respect of the reserve specified opposite thereto in Column 2 of the Schedule, is dissolved.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2
Cavanbah Hall Reserve Trust.	Reserve No.: 90985. Public Purpose: Senior Citizens' Centre. Notified: 3 February 1978. File No.: GF79 R 30.

APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE

PURSUANT to section 92 (1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder is appointed as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2
Coffs Harbour (R.140058) Community Village Reserve Trust.	Reserve No.: 90985. Public Purpose: Senior Citizens' Centre. Notified: 3 February 1978. File No.: GF79 R 30.

RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the schedule hereunder is reserved as specified opposite thereto in Column 2 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1

Land District: Lismore
 Local Government Area:
 Richmond Valley Council
 Locality: Rileys Hill
 Lot D.P. No. Parish County
 7007 1021524 Riley Richmond
 Area: 6.32ha
 File Reference: GF02R7

COLUMN 2

Reserve No. 1004288
 Public Purpose: Tourist
 Facilities And Services

Note: Reserve 48370 for quarry, notified 4 December 1912,
 is hereby revoked by this notification.

ESTABLISHMENT OF RESERVE TRUST

PURSUANT to section 92(1) of the Crown Lands Act 1989,
 the reserve trust specified in Column 1 of the Schedule
 hereunder is established under the name stated in that
 Column and is appointed as trustee of the reserve specified
 opposite thereto in Column 2 of the Schedule.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE

COLUMN 1

Rileys Hill Dry Dock
 Heritage Reserve Trust

COLUMN 2

Reserve No. 1004288
 Public Purpose: Tourist Facilities
 And Services
 Notified: This Day
 File Reference: GF03R3

GRIFFITH OFFICE

Department of Land and Water Conservation
2nd Floor, Griffith City Plaza,
120–130 Banna Avenue (PO Box 1030), Griffith NSW 2680
Phone: (02) 6962 7522 Fax: (02) 6962 5670

NOTIFICATION OF CLOSING OF PUBLIC ROAD

IN pursuance of the provisions of the Roads Act 1993, the
 road hereunder described is closed and the land comprised
 therein ceases to be a public road and the rights of passage
 and access that previously existed in relation to the road
 are extinguished.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

Description

Land District — Yanco;
Local Government Area — Leeton.

Road being Lots 1, 2 and 3, DP 1047313, Parish
 Willimbong, County Cooper.

Note: On closing, the land within the former road remains
 vested in Leeton Shire Council as operational land
 for the purposes of the Local Government Act 1993.

File No.: GH01 H 141.

Council Reference: 83.43.

HEAD OFFICE**Department of Land and Water Conservation****23-33 Bridge Street, Sydney, NSW 2000****Phone: (02) 9228 6469 Fax: (02) 9228 6361****ERRATUM**

THE Notice relating to Compulsory Acquisition of Land pursuant to Land Acquisition (Just Terms Compensation Act) 1991, for the Gosford/Wyong Joint Water Supply that appeared in the *Government Gazette* of 14 December 2001, Folio 9993, should read in the Schedule as 21.71 hectares not 27.1 hectares.

MAITLAND OFFICE**Department of Land and Water Conservation****Newcastle Road (PO Box 6), East Maitland, NSW 2323****Phone: (02) 4937 9300 Fax: (02) 4934 2252****NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHN AQUILINA, M.P.,
Minister for Fair Trading
and Minister for Land and Water Conservation

Description

Parish — Broke;
County — Northumberland;
Land District — Singleton;
Local Government Area — Singleton.

Road Closed: Lot 2, DP 1049388 at Broke (not being land under the Real Property Act).

File No.: MD01 H 200.

Note: On closing, the land within Lot 2, DP 1049388, will remain land vested in the Crown as Crown Land.

NOWRA OFFICE
Department of Land and Water Conservation
64 North Street (PO Box 309), Nowra, NSW 2541
Phone: (02) 4423 0122 Fax: (02) 4423 3011

**APPOINTMENT OF ADMINISTRATOR TO
MANAGE A RESERVE TRUST**

PURSUANT to section 117 of the Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified thereunder, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Andrew MCANESPIE, Land Access Manager, Sydney/South Coast Region, Department of Land and Water Conservation.	Bulli Pass Scenic Reserve Trust.	Reserve No.: 67711. Public Purpose: Public recreation. Notified: 1 July 1938. Locality: Bulli Pass. File No.: NA82 R 137.

Term of Office

For a term of up to six months commencing from 16 February 2003.

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation
and Minister for Fair Trading

Description

Land District — Kiama;
L.G.A. — Wollongong.

Lot 101, DP 1038431 at Otford, Parish Bulgo and County Cumberland (not being land under the Real Property Act).

File No.: NA02 H 278.

Note: On closing, the land remains vested in the Crown as Crown Land.

ORANGE OFFICE
Department of Land and Water Conservation
92 Kite Street (PO Box 2146), Orange NSW 2800
Phone: (02) 6393 4300 Fax: (02) 6362 3896

**APPOINTMENT OF ADMINISTRATOR TO
MANAGE A RESERVE TRUST**

PURSUANT to section 117, Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified thereunder, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Jamie LEES.	Windamere Recreational Park Reserve Trust.	Reserve No.: 190112. Public Purpose: Public recreation and environmental protection. Notified: 29 July 1994. File No.: OE94 R 13/7.

Term of Office

For a term commencing 21 February 2003 and expiring
20 August 2003.

SYDNEY METROPOLITAN OFFICE
Department of Land and Water Conservation
Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150
(PO Box 3935), Parramatta, NSW 2124
Phone: (02) 9895 7503 Fax: (02) 9895 6227

APPOINTMENT OF ADMINISTRATOR

PURSUANT to Section 117 of the Crown Lands Act 1989, the person named in Column 1 of the Schedule hereunder is appointed to be the administrator of the reserve trust named in Column 2 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Peter William MANN (for a period of six months, commencing 19 February 2003 and expiring 18 August 2003)	The Wentworth Park Sporting Complex Reserve Trust	That part of the area at Glebe proclaimed on 10 November 1885 for the purpose of Public Park and known as the "Wentworth Park Sporting Complex" (D500010). File No.: MN80R279

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act, 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Descriptions

Land District – Metropolitan; L.G.A. – Pittwater
 Lots 200 and 201, DP 1047661 at Clareville, Parish
 Narrabeen (Sheet 2), County Cumberland, MN00H263.
 Note: On closing, titles for the land in lots 200 and 201
 remain vested in Pittwater Council as operational
 land.

TAMWORTH OFFICE

Department of Land and Water Conservation
25–27 Fitzroy Street (PO Box 535), Tamworth, NSW 2340
Phone: (02) 6764 5100 Fax: (02) 6766 3805

**DRAFT ASSESSMENT OF CROWN LAND UNDER
 PART 3 OF THE CROWN LANDS ACT 1989 AND
 THE CROWN LANDS REGULATION 1995**

THE Minister for Land and Water Conservation has prepared a draft assessment for the Crown Land described hereunder.

Inspection of this draft assessment can be made at the Gunnedah Office of the Department of Land and Water Conservation at 35-37 Abbott Street, Gunnedah 2380.

Representations are invited from the public on the draft assessment. These may be made in writing for a period of twenty-eight (28) days commencing from the 14 February 2003 and should be sent to the Land Assessment Officer, Department of Land and Water Conservation, PO Box 550, Tamworth NSW 2340.

Please quote reference number TH79 H 649.

Reason for Assessment: Application for purchase of land by way of private treaty sale.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

Description

Crown Land at Breeza comprising of 192 hectares, Lot 155 in DP755477, in the Parish of Breeza and in the County of Pottinger.

Local Government Area: Gunnedah.

Contact: Christie Jackson, Tamworth (02) 6764 5952.

WAGGA WAGGA REGIONAL OFFICE

Department of Land and Water Conservation
Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga, NSW 2650
Phone: (02) 6921 2503 Fax: (02) 6921 1851

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown Land specified in Column 1 of the Schedule hereunder is reserved as specified opposite thereto in Column 2 of the Schedule.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Brian John KITE (re-appointment), Kevin Richard KITE (re-appointment), Cecil Desmond KALMS (re-appointment).	Narraburra Recreation Reserve Trust.	Reserve No.: 50694. Public Purpose: Public recreation. Notified: 19 May 1915. File No.: WA82 R 10.

Term of Office

For a term commencing the date of this notice and expiring 30 September 2007.

SCHEDULE

COLUMN 1	COLUMN 2
Land District: Tumut. Local Government Area: Tumut Shire Council. Locality: Goobarragandra River. Lot 53, DP No. 1032630, Parish Baloo, County Buccleuch; Lot 55, DP No. 1032630, Parish Baloo, County Buccleuch. Area: 8.814 hectares. File No.: WA03 R 3.	Reserve No.: 1004328. Public Purpose: Public recreation and access.

Water Conservation

WATER ACT 1912

APPLICATIONS for a licence under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

Applications for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Lachlan River Valley

LAMPE FARMING (AUST) PTY LIMITED for 2 pumps on the Lachlan River on Lot 1, DP 112549, Parish of Huntawong, County of Nicholson, for water supply for stock and domestic purposes and irrigation of 390.64 hectares (citrus, lucerne) (new licence — replacing existing authority and increase in allocation obtained by way of permanent transfer) (in lieu of advertisements in the *Government Gazette* dated 19 July 2002 and *Hillston Spectator* dated 24 July 2002) (Reference: 70SL090812) (GA2:512476).

Stephen Peter MAY and Tracie Leanne WICKS for a pump on the Lachlan River on Lot 3, DP 560508, Parish Condobolin, County Cunningham, for water supply for irrigation of 2 hectares (lucerne) (new licence — water obtained by way of permanent transfer scheme) (Reference: 70SL090872) (GA2:512474).

Written objections specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be effected and must be lodged with the Department within twenty-eight (28) days of the date of this publication as prescribed by the Act.

V. RUSSELL,
Resource Assess Manager,
Central West Region.

Department of Land and Water Conservation,
PO Box 136, Forbes, NSW 2871.
Telephone: (02) 6852 1222.

WATER ACT 1912

Notice Under Section 22B — Pumping Restrictions

Maguires Creek, Houghlahans Creek, Pearces Creek,
Skinners Creek, Byron Creek, Tinderbox Creek,
O'Possum Creek, Emigrant Creek, Youngman Creek,
Duck Creek, Gum Creek, Tucki Tucki Creek, Marom Creek
and their Tributaries

THE Department of Land and Water Conservation, pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Maguires Creek, Houghlahans Creek, Pearces Creek, Skinners Creek, Byron Creek, Tinderbox Creek, O'Possum Creek, Emigrant Creek, Youngman Creek, Duck Creek, Gum Creek, Tucki Tucki Creek, Marom Creek and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Thursday, 6 February 2003 and until further notice, the right to pump water is RESTRICTED to a maximum of two hours in any twenty-four hour period between the hours of 7.00 a.m. and 9.00 a.m.

This restriction excludes water supply for stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- (a) where the offence was committed by a Corporation — 200 penalty units.
- (b) where the offence was committed by any other person — 100 penalty units.

One penalty unit = \$110.00.

Dated this 6th day February 2003.

G. LOLLBACK,
Resource Access Manager,
North Coast Region,
Grafton.

GA2:467863.

WATER ACT 1912

Notice Under Section 22B — Pumping Restrictions

Collins Creek, Fawcetts Creek, Richmond River from
Casino to The Risk, Lynchs Creek, Gradys Creek,
Goolmangar Creek, Jiggi Creek, Upper Wilsons River
above Town Water Supply Weir, Leycester Creek Tidal
Pool, Wilsons River below Boatharbour, Richmond River
below Wilsons River Junction, Terania Creek, Tuntable
Creek, Coopers Creek, Wilsons River above Boatharbour,
Skinners Creek, Byron Creek, Tinderbox Creek,
O'Possum Creek and their Tributaries

THE Department of Land and Water Conservation, pursuant to Section 22B of the Water Act 1912, is satisfied that the quantity of water available the abovementioned watercourses and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Saturday, 8 February 2003 and until further notice, the right to pump water is RESTRICTED to a maximum of twelve hours in any twenty-four hour period.

This restriction excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- (a) where the offence was committed by a Corporation — 200 penalty units.
- (b) where the offence was committed by any other person — 100 penalty units.

One penalty unit = \$110.00.

Dated this 8th day of February 2003.

* All previous suspension notices have now been lifted.

G. LOLLBACK,
Resource Access Manager,
North Coast Region,
Grafton.

GA2:867866.

**NOTICE OF WITHDRAWAL OF PUMPING
SUSPENSIONS UNDER SECTION 22B OF THE
WATER ACT 1912**

Brays Creek, North Pumpenbil Creek, South Pumpenbil Creek, Tyalgum Creek, Oxley River, Hopping Dicks Creek, Tweed River, Rous River, Burringbar Creek, Cudgera Creek, Piggabeen Creek, Cobaki Creek, Duroby Creek, Bilambil Creek And Their Tributaries

THE Department of Land and Water Conservation advises that PUMPING SUSPENSIONS under section 22B of the Water Act 1912 relating to the abovementioned watercourses and their tributaries with respect to the taking of water therefrom hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Water Act 1912 that pumping suspensions so imposed are now cancelled. Diversion of water must however be undertaken in accordance with the conditions of individual licences.

Dated this eighth day of February 2003.

G. LOLLBACK,
Resource Access Manager,
North Coast Region
GRAFTON
GA2: 467864

**NOTICE UNDER SECTION 22B OF THE WATER
ACT 1912**

PUMPING SUSPENSIONS

Camden Haven River, Stewarts River And Their
Tributaries

THE Department of Land and Water Conservation pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Camden Haven River, Stewarts River and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Monday, 10 February 2003 and until further notice, the right to pump water is SUSPENDED.

This suspension excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

a) where the offence was committed by a Corporation – 200 penalty units.

b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

Dated this tenth day of February 2003.

G. LOLLBACK,
Resource Access Manager,
North Coast Region
Grafton

GA2: 467867

**NOTICE OF WITHDRAWAL OF PUMPING
SUSPENSIONS UNDER SECTION 22B OF THE
WATER ACT 1912**

Brunswick River, Marshalls Creek, Simpson Creek, Tyagarah Creek, Lacks Creek And Their Tributaries

THE Department of Land and Water Conservation advises that PUMPING SUSPENSIONS under section 22B of the Water Act 1912 relating to Brunswick River, Marshalls Creek, Simpson Creek, Tyagarah Creek, Lacks Creek and their tributaries with respect to the taking of water therefrom hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Water Act 1912 that pumping suspensions so imposed are now cancelled. Diversion of water must however be undertaken in accordance with the conditions of individual licences.

Dated this eighth day of February 2003.

G. LOLLBACK,
Resource Access Manager,
North Coast Region
GRAFTON
GA2: 467865

WATER ACT 1912

AN APPLICATION for a licence under the section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

Frank and Joanne Mary and Robert Brian and Victoria MUSCAT for a pump on the Nepean River on 1//1029702, Parish of Castlereagh, County of Cumberland for irrigation of 25 hectares (turf) (Replacement licence – transfer of volumetric entitlement from 10SL55400) (Not subject to the 1995 Hawkesbury/Nepean Embargo) (Ref:10SL56476) (GA2:460667).

Jan and Nancy CHEETHAM for a pump on the Wollondilly River, Part Lot3//198294, Parish of Towrang, County of Argyle for water supply for stock and domestic purposes (To replace previous application 10SL56345) (Alteration to pumpsite) (The addition of stock purposes) (Not subject to the 1995 Hawkesbury/Nepean Embargo) (Ref:10SL56483) (GA2:462925)

Any inquiries regarding the above should be directed to the undersigned (Tel.: 9895 7194).

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

WAYNE CONNERS,
A/Natural Resource Project Officer,
Sydney/South Coast Region

Department of Land and Water Conservation
PO Box 3935, Parramatta NSW 2124

WATER ACT 1912

AN APPLICATION for a licence under Part 5 of the Water Act 1912, as amended, has been received as follows:

Murrumbidgee Valley

BARNU PTY LIMITED for de-watering an existing mine on Lot 3, DP 747544, Parish of Bobbara, County of Harden. New Licence. 40BL189001

Written submissions of support or objections with grounds stating how your interest may be affected must be lodged before 13th March 2003 as prescribed by the Act.

S. F. WEBB,
Water Access Manager,
Murrumbidgee Region

Department of Land and Water Conservation
PO Box 156, LEETON NSW 2705

WATER ACT 1912**NOTICE UNDER SECTION 22B****PUMPING RESTRICTIONS***Morleys Creek*

THE Water Administration Ministerial Corporation, pursuant to section 22B of the Water Act 1912, being satisfied that the quantity of water available or likely to be available in Morleys Creek is insufficient to meet all requirements with respect to the taking of water from the creek hereby gives notice to:

Holder of entitlements issued under Part 2 of the Water Act 1912, including those for stock and domestic water supply purposes AND all non licensed riparian users

That from Thursday 13th February 2003 until further notice, the taking of water from Morleys Creek is restricted as follows:

Pumping may only occur for internal household use

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

(a) where the offence was committed by a Corporation \$22,000: or in the case of a continuing offence to further penalty not exceeding \$2,200 per day.

(b) where the offence was committed by any other person \$11,000: or in the case of a continuing offence to further penalty not exceeding \$1,100 per day.

Dated this 10th February 2003.

W. FORD,
Regional Director,
Murrumbidgee Region

WATER ACT 1912

AN application under Part 2 being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

Application for a licence within a proclaimed local area as generally described hereunder has been received as follows:

Peel River Valley

Dianne Elizabeth GREENWOOD for one (1) pump on the Peel River on Lot 21, DP 755350, Parish of Woolomin, County of Parry for irrigation of 8 hectares (improved pasture and fodder). Permanent transfer of existing entitlement. L.O. Papers 90SL100600. GA2460841.

Written objections to the application specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth within 28 days as specified in the Act.

GEOFF CAMERON,
Manager Resource Access

Department of Land and Water Conservation
PO Box 550, Tamworth NSW 2340

WATER MANAGEMENT ACT 2000**Regulated River Order No. 2**

Pursuant to the definition of '*regulated river*' in the Dictionary to the Water Management Act 2000, I, JOHN AQUILINA, MP, Minister for Land and Water Conservation, declare by this Order that the *rivers* listed in the Schedule below are *regulated rivers*.

Dated this 14th day of February 2003.

JOHN AQUILINA, MP
Minister for Land and Water Conservation

Explanatory note

The dictionary definition of a regulated river in the Water Management Act, 2000 provides that the Minister can declare, by order published in the Gazette, a river to be a regulated river.

SCHEDULE

Ana Branch of Willandra/Billabong Creek, offtaking within portion 1, Parish of Gunagai, County of Blaxland.

Bumbuggan Creek from its confluence with the Lachlan River to its confluence with Goobang Creek.

Carrawabbity Creek, to the northern boundary of Portion 148, Parish of Carrawabbity, County of Ashburnham, from its junction with the Lachlan River.

Goobang Creek from its confluence with Bumbuggan Creek to its confluence with the Lachlan River.

Island Creek from the upstream to the downstream confluences with the Lachlan River.

Jemalong Creek, from its confluence with the Lachlan River to the southern boundary of Portion 18, Parish of Tallabung, County of Forbes.

Lachlan River, from the upper limit of Wyangala Dam storage downstream to the Murrumbidgee River; including all tributaries to the storage (named and unnamed) up to high water mark of the storage.

Lake Brewster.

Lake Cargelligo.

Nerathong Creek from its confluence with Wallamundry Creek to its confluence with the Lachlan River.

The channel or cutting connecting The Curlew Water and Lake Cargelligo.

The channel or cutting connecting The Sheet of Water and The Curlew Water.

The Curlew Water.

The cutting connecting the Lachlan River and The Sheet of Water.

The Lake Creek connecting Lake Cargelligo and Lachlan River.

The Sheet of Water.

Torriganny Creek.

Unnamed lagoon offtaking from the Lachlan River in portion W.I. 3882, Parish of Jundrie, County of Blaxland.

Unnamed watercourse offtaking from the Lachlan River within portion 6, Parish of Hunthawong, County of Nicholson.

Wallamundry Creek from its confluence with Island Creek to its confluence with the Lachlan River.

Wallaroi Creek from its confluence with Wallamundry Creek to its confluence with the Lachlan River.

Willandra Creek from the offtake from the Lachlan River downstream to the Willandra Homestead Weir located on Portion 11, Parish of Bundunglong, County of Franklin and Portion 7, Parish of Warranary, County of Mossgiel.

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

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Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act* 2000 as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003, and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Northern Rivers Water Management Area known as the Alstonville Plateau Groundwater Sources (hereafter **these groundwater sources**) as shown in Schedule 2.

Note. The Northern Rivers Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) The following groundwater sources referred to in this Plan are shown on the map in Schedule 2:
 - (a) Alstonville groundwater source (hereafter **Zone 1**),
 - (b) Tuckean groundwater source (hereafter **Zone 2**),
 - (c) Bangalow groundwater source (hereafter **Zone 3**),
 - (d) Coopers groundwater source (hereafter **Zone 4**),
 - (e) Wyrallah groundwater source (hereafter **Zone 5**), and
 - (f) Lennox groundwater source (hereafter **Zone 6**).

5 Waters to which this Plan applies

The waters in these groundwater sources includes all water contained in Alstonville Plateau basalt aquifers.

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from the date of commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is that groundwater is managed in the Alstonville Plateau groundwater sources to ensure the economic, social and cultural well being of its communities, healthy water dependant ecosystems and contributions of flow to downstream catchments.

11 Objectives

The objectives of this Plan are to:

- (a) ensure the on-going maintenance and enhancement of groundwater quantity and quality across these groundwater sources,
- (b) provide sustainable access to water for town water supplies,
- (c) maintain the groundwater contribution to surface waters for the protection of water dependent ecosystems and extractions in downstream sub-catchments,
- (d) provide sustainable access to groundwater for irrigation and commercial purposes,
- (e) preserve and enhance ecosystems that depend on groundwater in these groundwater sources,
- (f) ensure Aboriginal cultural needs are considered in groundwater management decisions in these groundwater sources, to enable maintenance and protection of values and places of importance under traditional laws, customs and practices,
- (g) provide opportunities for access to groundwater in these groundwater sources for domestic and stock, and native title purposes,
- (h) minimise the risk of contamination of these groundwater sources, and
- (i) manage extraction in order to maintain the beneficial use category of these groundwater sources.

Note. The beneficial use category is identified in clause 38.

12 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules and manage access to groundwater consistent with those rules,
- (b) establish rules for the protection of basic landholder rights,
- (c) establish an extraction limit for each groundwater source, taking into account the requirements of the environment,
- (d) establish rules for the granting of access licences,

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- (e) establish rules for determining the groundwater available from time to time under access licences,
- (f) establish water allocation account management rules,
- (g) establish rules for minimising the local impact of groundwater extraction on the environment, the aquifer itself, and between users,
- (h) establish the access licence dealing rules, and
- (i) establish the conditions that will apply to all access licences and water supply work (bore) approvals.

13 Performance indicators

For the purpose of section 35 (1) (b) of the Act, the following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in groundwater extraction relative to the extraction limit,
- (b) change in climate adjusted groundwater levels,
- (c) change in water levels adjacent to identified groundwater dependent ecosystems,
- (d) change in groundwater quality,
- (e) change in economic benefits derived from groundwater extraction and use,
- (f) extent to which domestic and stock rights requirements have been met,
- (g) extent to which local water utility requirements have been met,
- (h) extent to which native title rights requirements have been met, and
- (i) extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

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Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore that the level of natural recharge to these groundwater sources will vary.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in these groundwater sources within the limits of water availability on a long-term average basis, and
 - (b) water extractions to enable the protection of groundwater dependent ecosystems and water quality of these groundwater sources.

16 Recharge

The overall basis for water sharing in this Plan is the average annual recharge to each groundwater source as follows:

- (a) 11,575 megalitres per year (hereafter **ML/yr**) in Zone 1,
- (b) 12,404 ML/yr in Zone 2,
- (c) 11,667 ML/yr in Zone 3,
- (d) 3,533 ML/yr in Zone 4,
- (e) 3,573 ML/yr in Zone 5, and
- (f) 1,720 ML/yr in Zone 6.

Part 4 Environmental water provisions

17 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

18 Environmental health water

Note. It is anticipated that the environmental health water provisions in this Part, and management of local impacts provisions in Part 10 of this Plan, will also protect the cultural and spiritual values of groundwater (see clause 11(f)).

- (1) This Plan establishes the following environmental health water rules:
 - (a) the long-term average storage component of each groundwater source minus the basic landholder rights extraction, is reserved for the environment,
 - (b) 80% of the average annual recharge to Zone 1 will be reserved for the environment,
 - (c) 80% of the average annual recharge to Zone 2 will be reserved for the environment,
 - (d) 80% of the average annual recharge to Zone 3 will be reserved for the environment,
 - (e) 80% of the average annual recharge to Zone 4 will be reserved for the environment,
 - (f) 80% of the average annual recharge to Zone 5 will be reserved for the environment, and
 - (g) 80% of the average annual recharge to Zone 6 will be reserved for the environment.
- (2) Pursuant to section 42 (2) of the Act, the Minister may vary the proportion of recharge reserved as the environmental health water in subclause (1) after 30 June 2008, based on further studies of groundwater ecosystems dependency undertaken by the Minister.

Note. The extent of impact of this change on access by licence holders is limited by the provisions in clause 28.
- (3) Before making a variation under subclause (2), the Minister should seek the advice from:
 - (a) a water management committee with water sharing responsibilities in these groundwater sources, if one exists, or
 - (b) an expert advisory panel or advisory committee established by the Minister for this purpose, on advice from the water management committee referred to in subclause (a), or
 - (c) if there is no water management committee with water sharing responsibilities for these groundwater sources, a catchment management board with responsibilities for the area to which this Plan applies, or an expert advisory panel or advisory committee established by the Minister for this purpose, on advice from the catchment management board.

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- (4) The body established in subclause (3) must, within 3 months of receiving a report on the studies undertaken in subclause (2), advise the Minister on any variation to the environmental health water provisions.
- (5) In the event that the body established in subclause (3) cannot reach agreement within 3 months, the Minister may vary the environmental health water provisions in accordance with subclause (2).
- (6) The Minister should consult with the Minister for the Environment before varying environmental health water in accordance with subclause (2).

19 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

20 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the access licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

21 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

22 Domestic and stock rights

Note. It is not recommended that the water from these groundwater sources be consumed without prior treatment. Land use activities may have polluted the groundwater in some areas.

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 1,552 ML/yr, comprising:
 - (a) 465 ML/yr in Zone 1,
 - (b) 718 ML/yr in Zone 2,
 - (c) 264 ML/yr in Zone 3,
 - (d) 9 ML/yr in Zone 4,
 - (e) 69 ML/yr in Zone 5, and
 - (f) 27 ML/yr in Zone 6.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings overlying these groundwater sources, or as a result of the increase in the exercise of basic landholder rights by existing landholders.

23 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are a total of 0 ML/yr.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. An increase in native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

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Part 6 Bulk access regime

24 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these groundwater sources having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water for extraction under access licences

25 Estimate of water requirements

- (1) This Part is made in accordance with section 20 (1) (c) of the Act.
- (2) At the commencement of this Plan, the requirements identified for water for extraction under access licences within these groundwater sources are estimated to be as follows:
 - (a) 2,660 ML/yr in Zone 1,
 - (b) 2,564 ML/yr in Zone 2,
 - (c) 1,173 ML/yr in Zone 3,
 - (d) 0 ML/yr in Zone 4,
 - (e) 38 ML/yr in Zone 5, and
 - (f) 5 ML/yr in Zone 6.
- (3) Subclause (2) includes local water utility access licences of 1,230 ML/year in these groundwater sources, made up of:
 - (a) 880 ML/yr in Zone 1, being 350 ML/yr for Ballina Shire Council, and 530 ML/yr for Rous Water,
 - (b) 200 ML/yr in Zone 2, being for Ballina Shire Council, and
 - (c) 150 ML/yr in Zone 3, being for Rous Water.

Note. Subclauses (2) and (3) represent the total volumes specified on access licences in these groundwater sources. It is not a commitment to supply that water.
- (4) This Plan recognises that the total requirements for water for extraction under access licences within these groundwater sources may change during the term of this Plan as a result of:
 - (a) the granting, surrender or cancellation of access licences,
 - (b) the granting of applications lodged before the making of the embargo under the *Water Act 1912*, but only if the total access licence share components in each groundwater source remain below the extraction limits specified in clause 27,
 - (c) the variation of local water utility access licences under section 66 of the Act, or
 - (d) the volumetric quantification of the share components of existing access licences that are currently non-volumetric.

Part 8 Rules for granting access licences

26 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in these groundwater sources and the need to protect groundwater dependent ecosystems and groundwater quality.
- (2) Access licences may be granted in these groundwater sources subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in these groundwater sources, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's access licence share component at 5 yearly intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) aquifer (Aboriginal cultural) access licences, or aquifer (research) access licences, providing the access licence share component sought does not exceed 10 ML/yr, or
 - (d) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) The Minister should consider amending the embargo specified in subclauses (2) and (3) if extraction limits are increased to 25% of the average annual recharge in accordance with clause 28(2), to allow the granting of access licences by up to an additional 5% of recharge in each groundwater source where total access licence share components are below the amended extraction limit.
- (5) In applying for a new access licence, the applicant must establish the purpose and circumstances relating to that access licence, and that the share and extraction component sought will be the minimum required to meet that purpose and circumstance.
- (6) Access licences granted under this Part cannot be extracted through a water supply work (bore) located in areas where the extraction authorised by the licence, plus the full extraction authorised by existing access licences through water supply works (bores) located in the area, and the exercise of basic landholder rights, are likely to cause adverse local impact, as outlined in Part 10 Division 3 of this Plan.
- (7) If an access licence share component applied for is significant, as determined by the Minister on the basis of particular aquifer characteristics, the application will not be granted until a water supply work (bore) approval has been granted and the work constructed.
- (8) Once the water supply work (bore) is constructed and the results of a pumping test or its equivalent are supplied by the applicant, in the required form and to the specification of the Minister, the access licence may be granted.

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- (9) The share component of the access licence granted under subclause (8) will be the proportion of the share component sought that the water supply work (bore) is capable of extracting without adverse local impact as outlined in Part 10 Division 2 of this Plan.
- (10) Subclauses (5), (7), (8) and (9) do not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (11) In accordance with section 56 of the Act, all access licences in these groundwater sources shall have a share component expressed as a volume in megalitres per year.
- (12) All new access licence applications must be sent to the NSW Aboriginal Land Council and the Local Aboriginal Land Councils or the Bundjalung Elders Group for assessment of impact on significant Aboriginal sites, and advice to the Minister on appropriate impact mitigation measures.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limits

27 Long-term average extraction limits

- (1) This Division is made in accordance with section 20 (2) (a) of the Act.
- (2) The long-term average extraction limit for each groundwater source for each year of this Plan is the recharge established in clause 16, minus the proportion of recharge reserved as environmental health water in clause 18, and is as follows:
 - (a) 2,315 ML/yr in Zone 1,
 - (b) 2,481 ML/yr in Zone 2,
 - (c) 2,333 ML/yr in Zone 3,
 - (d) 707 ML/yr in Zone 4,
 - (e) 715 ML/yr in Zone 5, and
 - (f) 344 ML/yr in Zone 6.

28 Variation of the long-term average extraction limits

- (1) Pursuant to section 42 (2) of the Act, the Minister may vary the long-term average extraction limits established under clause 27 after 30 June 2008 as a result of any change to the environmental health water arising from clause 18 (2).
- (2) If there is any change to the long-term average extraction limits arising from subclause (1) then:
 - (a) the extraction limits will not increase by more than 25%, and
 - (b) the extraction limits will not decrease.

Division 2 Available water determinations

29 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in each groundwater source will be monitored in each water accounting year to determine if any growth in volumes extracted is occurring above the extraction limit in clause 27, based on comparison of the extraction limit against the average extraction within the groundwater source over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 34 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in the aquifer for environmental purposes,

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- then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work (bore),
 - (d) if the 3 year average of extraction in a groundwater source exceeds the long-term average extraction limit established in clause 27 by 5% or greater, the available water determination for the following water accounting year for aquifer access licences in that groundwater source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
 - (e) if the 3 year average of extraction in a groundwater source is less than 95% of the long-term average extraction limit established in clause 27, then the available water determination for aquifer access licences in that groundwater source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
 - (f) notwithstanding subclause (e) the available water determination will not exceed 100% of total access licence share components,
 - (g) the available water determination calculated in accordance with this clause will apply to all access licences excepting local water utility and domestic and stock access licences and will be the same percentage for all access licences to which it applies, and
 - (h) separate available water determinations will be made for both local water utility and domestic and stock access licences, and subject to section 60 of the Act, this shall be 100% of these access licence share components.

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Part 10 Rules for managing access licences

Division 1 General

30 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (b) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

31 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

32 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in these groundwater sources.

Note. Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

33 Accrual of water allocations

Water allocations will be accrued into water allocation accounts each water accounting year in accordance with the Minister's available water determinations as specified in clause 29.

34 Annual accounting for water extraction

- (1) Water taken from these groundwater sources will be accounted for at least annually.
- (2) Water taken by an approved water supply work (bore) nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) In any one water accounting year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from any of these groundwater sources under an access licence may not exceed a volume consisting of:
 - (a) 100% of the access licence share component,

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- (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (5) Total water in any account at any time may not exceed a volume consisting of:
 - (a) 100% of the aquifer access licence share component,
 - (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (6) Allocations in a water allocation account cannot be carried over from one water accounting year to the next.
- (7) A water allocation account shall remain at or above zero at all times.

Division 3 Management of local impacts**35 Management of local impacts**

This Division is made in accordance with section 21 (a) of the Act.

36 Extraction interference between neighbouring bores

- (1) To minimise interference between extraction under different access licences in each groundwater source, extraction of greater than 20 ML/yr authorised by a new access licence will not be permitted from a water supply work (bore) within:
 - (a) 400 metres of a Department of Land and Water Conservation monitoring bore, or an approved water supply work (bore) nominated by another access licence, authorised to extract greater than 20 ML/yr,
 - (b) 500 metres of an approved water supply work (bore) nominated by a local water utility access licence, or
 - (c) 200 metres of an approved water supply work (bore) from which basic landholder rights water is being extracted, or a water supply work nominated by an access licence, authorised to extract less than 20 ML/yr.
- (2) Notwithstanding the provisions of subclause (1), the Minister may, upon application by an access licence holder, vary the distance restrictions specified in subclause (1) if:
 - (a) an hydrogeological study undertaken by the licence holder, and assessed as adequate by the Minister, demonstrates minimal potential for any adverse impact on existing licensed extraction,
 - (b) the Minister is satisfied that the proposed extraction will not have any adverse impact on local aquifer water levels, other licensed extraction, or basic landholder rights,
 - (c) all potentially affected access licence holders have been notified by the proponent, and

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Note. Potentially affected access licence holders are typically neighbouring access licence holders and those in the near vicinity.

- (d) there is a process for remediation in the event that any adverse impact occurs in the future, specified as conditions on the licence.
- (3) Subclause (1) does not apply to extraction under existing access licences.
- (4) Extraction of less than 20 ML/yr authorised by a new access licence or a basic landholder rights water supply work (bore) approval will not be permitted within 40 metres of extraction of less than 20 ML/yr authorised by an existing access licence or a basic landholder rights water supply work (bore) approval.

Note. The intention of this clause is to minimise the impact of extraction under new access licences on extraction under existing access licences. It is intended to develop models to support hydrogeological assessment of the adverse impacts of new groundwater extractions on existing licensed extraction.

37 Water level management

- (1) The Minister may declare that, in order to protect water levels within these groundwater sources, local extraction rules are to apply in a defined area, known as a local impact area.
- (2) Extraction from all water supply works (bores) within a local impact area declared under subclause (1), nominated by an access licence, will be restricted to such an extent and for such time as is required to reinstate water levels to such a degree as to mitigate or avoid any adverse impact, if:
 - (a) there is a decline in groundwater levels over 3 successive years,
 - (b) there is a significant drop in groundwater levels in a single year, or
 - (c) a minimum sustainable groundwater level is reached.
- (3) The terms significant drop and minimum sustainable groundwater level referred to in subclause (2) will be determined by the Minister.
- (4) The Minister may nominate specific water levels to define the terms referred to in subclauses (2) (b) and (2) (c), to ensure extraction does not cause an ongoing decline in groundwater levels.
- (5) When water levels recover, extraction restrictions may be eased to such an extent as to allow recovered water levels to be maintained and fluctuate within the normal bounds of climate variability.

Note. This clause recognises that in some locations, at certain periods of high groundwater demand, critical water level declines may occur, and that additional extraction limitations may be required.

Note. It is intended that local impact models will be developed and used to predict water level declines in a local area under different extraction scenarios. Significant drops and minimum sustainable groundwater levels can then be set for an area based on the requirements of groundwater dependent ecosystems in the locality, and on the impact that reduced water levels may have on basic rights and extraction in the locality.

38 Water quality management

- (1) The beneficial uses of these groundwater sources are raw water for drinking, and ecosystem protection, based on the Australian and New Zealand Environment and Conservation Council *Water Quality Guidelines 2001*, and the National Health and Medical Research Council *Raw Water for Drinking Purposes Guidelines 1996*.

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- (2) Water quality decline will be deemed unacceptable if extraction is likely to cause water quality to decline to a lower beneficial use category.

Note. It is not recommended that the water from these groundwater sources be consumed without prior treatment. Land use activities may have polluted the groundwater in some areas.

- (3) The Minister may declare that, in order to protect water quality within these groundwater sources, local access rules are to apply in a defined area, known as a local impact area.
- (4) If unacceptable water quality declines are resulting from extraction, extraction from all water supply works (bores) within a local impact area declared under subclause (3) nominated by an access licence will be restricted to such an extent and for such time as required to halt that decline, or restore the beneficial use of these groundwater sources.
- (5) Construction of a new water supply work (bore) will not be permitted within 250 metres of a contamination source unless:
- (a) the proponent can demonstrate to the Minister's satisfaction that a lesser distance will result in no more than minimal harm to the groundwater source or dependent ecosystems, and that extraction will not cause a threat to public health as advised by the Minister for Health,
 - (b) the contamination source is located a minimum of 100m down gradient of the extraction site, subject to assessment by the Minister, or
 - (c) the water supply work (bore) has an impermeable seal, as specified by the Minister, constructed within the bore to isolate aquifers preventing water ingress from the contamination source.
- (6) An existing water supply work (bore) within 100 metres of a contamination source will be able to continue extraction of groundwater at levels equivalent to 2002/03 access licence share components nominating that work, subject to any restrictions arising from subclause (4).
- (7) Extraction of groundwater from a new water supply work (bore) for any purpose except basic landholder rights, between 100 metres to 200 metres of a contamination source, will require:
- (a) an application to the Minister by the licence holder providing evidence that no drawdown of the watertable within 100 metres of the contamination source will occur,
 - (b) the Minister to assess the application as adequate, and
 - (c) the Minister to approve the application.
- (8) Schedule 4 lists contamination sources in these groundwater sources.
- (9) Subclauses (5), (6) and (7) may be applied by the Minister in relation to contamination sources not on Schedule 4, based on the results of a site inspection or other relevant information provided to the Minister.
- (10) Pursuant to section 42 (2) of the Act, the Minister may vary Schedule 4 by inclusion or deletion of a contamination source based on the results of a site inspection or other relevant information provided to the Minister on that contamination source.

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Note. Schedule 4 is only to be used in relation to the granting of access licences and water supply work (bore) approvals under the *Water Management Act 2000*.

39 Protection of groundwater dependent ecosystems

- (1) High priority groundwater dependent ecosystems are those shown in Schedule 5 and include the following:
 - (a) terrestrial vegetation, including mapped rainforest,
 - (b) wetlands containing significant mapped vegetation communities, including introduced melaleucas, and
 - (c) river baseflow systems which include aquatic, riparian and hyporheic ecosystems within and adjacent to rivers fed by groundwater.
- (2) Pursuant to section 42 (2) of the Act, the Minister may amend Schedule 5 if further groundwater dependent ecosystem studies are undertaken by the Minister.
- (3) The Minister should consult with the Minister for the Environment before making an amendment in accordance with subclause (2).
- (4) Extraction of groundwater from a new or replacement water supply work (bore) of greater than 20ML/yr is excluded within 100 metres of high priority groundwater dependent ecosystems listed in Schedule 5, or 40 metres of any river, unless the water supply work (bore) has an impermeable seal, as specified by the Minister, constructed within the bore to isolate aquifers preventing water ingress from the restricted aquifer.

Note. Subclause (2) will not apply to extraction from an existing water supply work (bore) until such time as the work is replaced.

- (5) Construction of a new or replacement water supply work (bore) authorised to extract greater than 20ML/yr is excluded within 100 metres to 200 metres of high priority groundwater dependent ecosystems, unless the approval holder demonstrates that there will be no drawdown resulting from groundwater extraction at the groundwater dependent ecosystem boundary.
- (6) Extraction of groundwater from a new or replacement water supply work (bore) of less than 20ML/yr, or pursuant to a basic landholder right, is excluded within 40 metres of high priority groundwater dependent ecosystems listed in Schedule 5, and any river, unless the water supply work (bore) has an impermeable seal, as specified by the Minister, constructed within the bore to isolate aquifers preventing water ingress from the restricted aquifer.
- (7) Extraction pursuant to existing access licences nominating a work within the distances specified in subclauses (4), (5) and (6) cannot increase the access licence share component nominating that work unless the conditions specified in this clause are met.

Note. A bore is deemed to be a replacement bore only if it is constructed to similar specifications of the bore being replaced, and if the replaced bore is abandoned.

Note. River for the purposes of this clause is a 3rd order stream or above, and perennial rivers.

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40 Extraction restrictions

The Minister may, in the event of local impact restrictions arising from this Division, impose by Order a reduction in annual, quarterly, monthly, weekly or daily extraction rates from water supply works (bores) in the affected area.

41 Group registration

This Plan allows for the formation of a group of access licences with respect to the sharing of local impact restrictions arising from this Division, subject to the following rules:

- (a) the group register will be maintained by the Minister,
- (b) holders of access licences must make a request to the Minister to form a group,
- (c) total extraction by all access licences within a group will be assessed as a whole against their combined restricted extraction and must not exceed that amount,
- (d) no access licence holder within the group may extract more than is permitted by Division 2 of this Part in any one water accounting year as a result of participation in a group,
- (e) an access licence holder may apply to be removed by the Minister from the group and the extraction by the group will be reduced by the extraction restriction of that access licence,
- (f) an access licence holder may apply to be added by the Minister to the group and the combined restricted extraction of the group will be increased by the extraction restriction of that access licence, and
- (g) the Minister reserves the right to remove a licence holder from a group where that individual causes the authorised group extraction to be exceeded, or to dissolve a group where its members exceed their combined extraction restriction.

42 Infrastructure failure

- (1) The operational rules relating to local impact management may rely on water levels at specified monitoring bores.
- (2) In the event of a monitoring bore failure the Minister may:
 - (a) continue with the current access rules until the monitoring bore is reinstated,
 - (b) adjust the current access rules based on climatic conditions and any other monitoring bore information, until the monitoring bore is reinstated, or
 - (c) rely on another monitoring bore in the area to provide information.

Part 11 Access licence dealing rules

43 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

44 Rules relating to constraints within a groundwater source

- (1) This clause applies to any relevant dealings under sections 71D, 71F, and 71J of the Act, and section 71G of the Act with respect to allocation assignments within a groundwater source.
- (2) Dealings are prohibited under this clause if:
 - (a) any of the access licences or water allocations are not within these groundwater sources, or
 - (b) the dealing would result in the total extraction under access licences through nominated works in the area, plus basic landholder rights extraction, causing adverse local impact in accordance with Part 10 Division 3 of this Plan.

45 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been effected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.
- (2) Dealings under section 71E of the Act that change the water source to which an access licence applies are prohibited in these groundwater sources, except as provided for in this clause.
- (3) An access licence with a share component specifying one of these groundwater sources may be cancelled and a new licence issued specifying another of these groundwater sources only if the total share components of all access licences in the groundwater source in which the access licence is issued remains below the extraction limit for that groundwater source established in clause 27.

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- (4) The volume of the share component on a licence issued under a dealing provided for in subclause (3) is to be the volume of the cancelled access licence share component.

46 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Dealings that result in conversion of an access licence of one category to an access licence of another category are prohibited in these groundwater sources.

47 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in an interstate access licence transfer into or out of these groundwater sources are prohibited.

48 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act for assignment of water allocations between water sources.
- (2) Dealings that assign water allocations between access licences in other water sources and access licences in these groundwater sources are prohibited.
- (3) Dealings that assign water allocations between an access licence in one of these groundwater sources and an access licence in another of these groundwater sources may be permitted only if:
 - (a) the total water allocations credited to all access licences in the groundwater source to which the water allocation is assigned remains below the extraction limit of that groundwater source established in clause 27, and
 - (b) the assignment would not result in the total extraction of credited water allocations through nominated works in the area, plus basic landholder rights extraction, causing any adverse local impact in accordance with Part 10 Division 3 of this Plan.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

49 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in an interstate assignment of water allocations to or from these groundwater sources are prohibited.

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Part 12 Mandatory conditions

50 Mandatory conditions on access licences

This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.

51 Access licence conditions

- (1) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence,
 - (c) the requirement that all taking of water under the access licence will be subject to the available water determinations,
 - (d) the requirement that all taking of water under the access licence will be subject to any local impact management restrictions established in this Plan,
 - (e) the requirement that all taking of water under the access licence will be subject to the account management rules established in this Plan,
 - (f) the requirement that water may only be taken under the access licence by the water supply work (bore) nominated by the access licence,
 - (g) the taking of water in accordance with the access licence may only occur if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account, and
 - (h) any other conditions required to implement the provisions of this Plan.
- (2) All domestic and stock access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption or stock watering as defined in section 52 of the Act.
- (3) All local water utility access licences shall have mandatory conditions that only allow the taking of water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act.
- (4) All aquifer (Aboriginal cultural) access licences shall have mandatory conditions that only allow the taking of water for Aboriginal personal, domestic, teaching and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, teaching cultural and ceremonial purposes.
- (5) All aquifer (research) access licences shall have mandatory conditions that only allow the taking of water for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other organisations, where any primary production resulting from the research program is not sold for profit.

52 Mandatory conditions on water supply work (bore) approvals

All approvals for a water supply work (bore) to which this Plan applies shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

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- (a) the water supply work (bore) is only to be constructed by a driller licensed under section 349 of the Act,
- (b) the water supply work (bore) must comply with drilling standards as specified by the Minister,
- (c) construction of a water supply work (bore) must prevent contamination between aquifers through proper bore construction,
- (d) a water supply work (bore) approval holder must ensure decommissioning procedures comply with applicable standards as specified by the Minister,
- (e) a new or replacement water supply work (bore) to access water for basic rights will be required, as a condition of approval, to be constructed to sufficient depth to maintain access to the water source for the life of the work,
- (f) the water supply work (bore) approval holder is, within 2 months of completion of the work, or after the issue of the approval if the water supply work (bore) is existing, to furnish to the Minister with:
 - (i) details of the work on the prescribed form,
 - (ii) a plan showing accurately the location of the work in relation to portion and property boundaries, and
 - (iii) details of any water analysis and/or pumping tests required by the Minister,
- (g) if during the construction of the water supply work (bore), saline or contaminated water is encountered above the producing aquifer, such water is to be sealed off by:
 - (i) inserting the appropriate length(s) of casing to a depth sufficient to exclude the saline or contaminated water from the work, and
 - (ii) placing an impermeable seal between the casing(s) and the walls of the bore hole from the bottom of the casing to ground level, as specified by the Minister,
- (h) if a water supply work (bore) is abandoned, the water supply work (bore) approval holder is to:
 - (i) notify the Minister that the work has been abandoned, and
 - (ii) seal off the aquifer, as specified by the Minister,
- (i) an extraction measurement device shall be installed and maintained on each water supply work (bore) used for extraction of water under an access licence, and such devices shall be of a type, and shall be maintained in a manner, which is acceptable to the Minister,
- (j) a water supply work (bore) must comply with the relevant local impact management rules in Part 10 of this Plan,
- (k) notwithstanding the available water determination, it is the responsibility of the water supply work (bore) approval holder to ascertain from the Minister whether or not there are in place any local impact restrictions before commencing to take water from these groundwater sources,

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- (l) extraction under an access licence through the approved water supply work (bore) is only authorised with respect to the access licences specified on the water supply work (bore) approval,
- (m) a water supply work (bore) approval holder must supply to the Minister on request, and to the required standards, a report pertaining to the quality of the water obtained from the water supply work (bore), and
- (n) any other conditions required to implement the provisions of this Plan.

Note. It is recommended that the Minister also apply conditions to water use approvals requiring the supply of information on an annual basis on types and areas of irrigated crops.

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Part 13 Monitoring and reporting

53 Monitoring

The monitoring of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee where one exists.

Note. The Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51(5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 14 Amendment of this Plan

54 Amendment of this Plan

- (1) This Part is made in accordance with section 42 (2) of the Act.
- (2) This Plan can be amended in accordance with the following clauses of this Plan:
 - (a) clause 18 in respect to environmental health water,
 - (b) clause 28 in respect to long-term average extraction limits,
 - (c) clause 38 in respect to contamination sources, or
 - (d) clause 39 in respect to high priority groundwater dependent ecosystems.

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Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

abandoned (work) refers to a water supply work (bore) that is no longer being used.

available water in relation to a water management area or water source, is the water that is available in that area or water source in accordance with an available water determination that is in force in respect of that area or water source.

available water determination is a written Order by the Minister as to the availability of water for the various categories of access licence in relation to a specified water management area or water source.

Note. An available water determination gives rise to a water allocation that is credited to a water allocation account for each licensed holder.

basalt aquifers are dark, fine grained, hard igneous rock formations that originate from a lava flow or minor intrusion, containing water within the fractures in the rocks. Basalt is the most common rock in the earth's crust.

contamination sources, relates to human activities that have resulted in the presence of a substance in the groundwater source at a concentration above that at which the substance is normally present, and at a level that presents a risk of harm to human health or reduces the beneficial use of a groundwater source.

Note. Contamination sources can arise from a range of industrial and other land based activities. The impact of some activities will be temporary, while others pose a risk over a much longer timeframe. In some instances, particularly when the land use has involved hazardous substances, the source may be threatening to humans, or may affect the current or future beneficial uses of the groundwater source. Determining in any particular case whether or not contamination presents a significant risk of harm can be complex and difficult. It involves considerations such as the type, nature, quantity and concentration of contaminants, how they manifest themselves and the nature of their impact in the particular groundwater source. It also involves broader questions such as the current use of the groundwater source, who might be exposed to the contamination under that use, and whether they would be exposed.

drawdown refers to a lowering of the level to which water will rise in cased bores. Natural drawdown may occur due to seasonal climatic changes. Groundwater pumping may also result in seasonal and long-term drawdown.

extraction limit is the amount of the long-term average annual recharge and storage that can be extracted, on average, each water accounting year.

groundwater is water that occurs beneath the ground surface in the saturated zone.

groundwater dependent ecosystems are ecosystems which have their species composition and natural ecological processes wholly or partially determined by groundwater.

hyporheic zone is the fluctuating zone of water exchange between the surface stream and the groundwater.

monitoring bore refers to a bore constructed for the purpose of measuring water levels and/or taking samples for water quality analysis.

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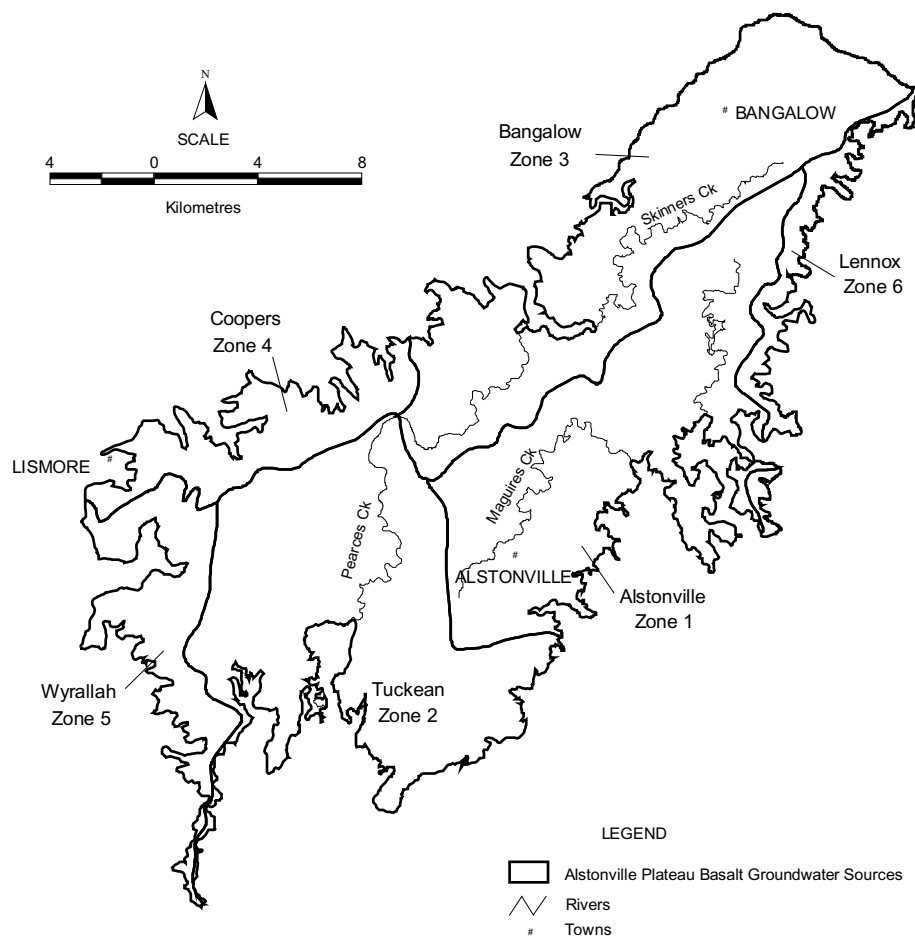
recharge is the addition of water, usually by infiltration, to an aquifer.

share component is the share component of an access licence.

watertable is the upper surface of an unconfined aquifer.

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Schedule 2 Alstonville Plateau Groundwater Sources



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Schedule 3 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target, there is a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1e The long term average annual extractions for groundwater limited (or being phased down) to an ecologically sustainable level (the Sustainable Yield) as determined by detailed assessment of each groundwater source and consultation with the relevant management committee. In the absence of such an assessment, the following to apply: 100% of average annual recharge for a groundwater source where there is no significant ecosystem dependency; 70% of average annual recharge where there is significant ecosystem dependency	FULL	- This Plan clearly sets out the sustainable yield (SY), or extraction limit, as 20% of estimated average annual recharge. - This Plan provides for a review of extraction limit in year 5 and allows for the extraction limit to be increased up to 25% of this Plan's average annual recharge figure.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	- This Plan clearly sets out the environmental health water as 80% of estimated average annual recharge in each groundwater source. - This Plan sets out extraction rules/buffer zones to limit local environmental impacts of extraction. - This Plan identifies high priority groundwater dependent

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		ecosystems, and establishes rules to protect them. • This Plan established a shallow aquifer extraction exclusion zone for new extraction adjacent to a river.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	HIGH	• This Plan clarifies access licence share components, and limits interference between groundwater licences. • This plan enables trading of licence rights. • The nature of the local extraction rules however means that access rights will not be exclusive but affected by the future location of other water supply works (bores). Licences with existing bores will have priority over licences requiring new bores.
Target 6a For groundwater sources, the total volume of water specified on access licences reduced over the term of a water sharing plan to no more than 125% of the Sustainable Yield	FULL	• The total access licence share components for the combined groundwater sources is less than 125% of SY (or the extraction limit).
Target 10 Degree of connectivity between aquifers and rivers assessed, and zones of high connectivity mapped to enable baseflows to the river to be maintained or improved	HIGH	• Baseflows to surface rivers are protected by low extraction limits and extraction exclusion zones for new extraction.
Target 11 Groundwater dependent ecosystems identified and mapped for all priority aquifers, and the ecological water requirements assessed to enable local groundwater extraction rates and/or Sustainable Yields to be reviewed	HIGH	• Types of dependent ecosystem have been identified and mapped, but ecological water requirements are not known. • This Plan sets out extraction rules/buffer zones to limit local environmental impacts of extraction on ecosystems. • This Plan identifies high priority groundwater dependent ecosystems with rules to protect them.
Target 12 Measures in place in all water sources subject to a	FULL	• This Plan has identified the volumes necessary to meet basic

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gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use		domestic and stock requirements. Local management rules protect basic right extractions.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	2 Aboriginal community representatives have been involved in development of this Plan. - Meetings were held with the Bundjalung Elders, Ngulingah and Far North Coast Aboriginal Land Councils. - An Aboriginal Steering Group was established and has prepared a plan to assist in consultation with local Aboriginal people including a workshop, community meeting, protocols process and assistance in submission writing.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	- This Plan has recognised specific Aboriginal cultural or traditional requirements but has not listed them for reasons of cultural sensitivity and has a specific Aboriginal objective. - This Plan does provide extraction limits and buffers to protect these dependent ecosystems which should assist in protecting Aboriginal values. - This Plan does provide local management rules which should also assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	This Plan provides for trading of access licence share components.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	- This Plan does not allow trading out of these groundwater sources. - This Plan does allow trading between groundwater sources within the area to which this Plan applies, with rules in place to minimise the impacts of such transfers on existing users and the environment.
Target 16d Reduced conversion factors only applied when	FULL	This Plan does not impose any reduction factors.

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necessary to offset increased losses associated with water supply delivery		
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	- This Plan recommends placing an embargo on new access licences within the area, with some exceptions. - The rules for granting of new licences are established in this Plan.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	This Plan establishes 6 separate groundwater sources, and the constraints to trading between these is based on access licence share component levels versus extraction limits for each source.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	- This Plan includes a general water quality objective. - This Plan recognises the beneficial uses as raw water for drinking purposes, and ecosystem protection. - Local management rules specifically address risks of groundwater contamination.
Target 38 Aquifer water quality vulnerability zones mapped and extraction limits reviewed to reduce the risk of lateral intrusion of poor quality water	PARTIAL	- Vulnerability mapping has not been referenced in this Plan. - This Plan sets out rules for managing lateral movement of poor quality groundwater.

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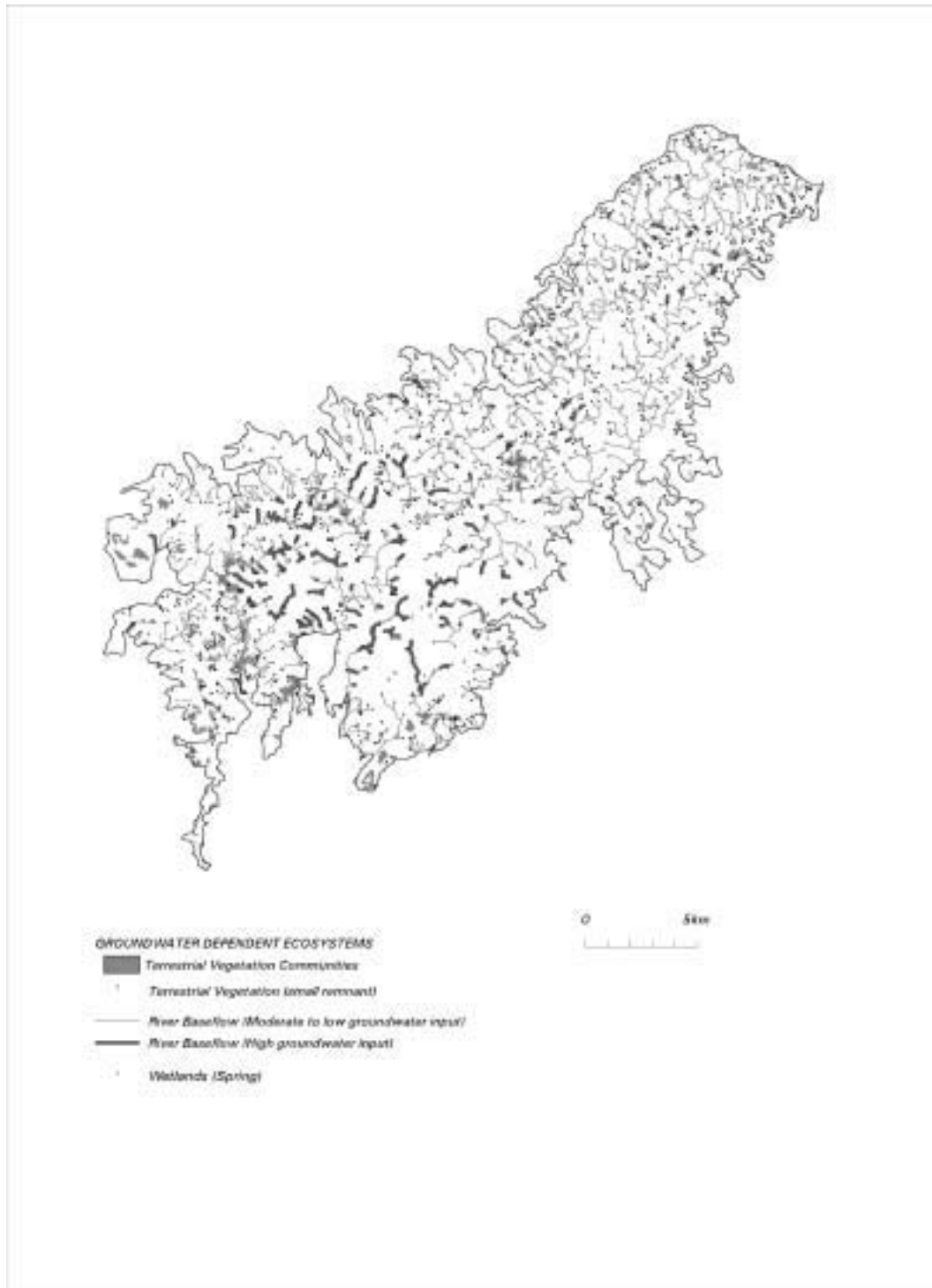
Schedule 4 Contamination sources

Contamination sources in the Alstonville Plateau Groundwater Sources include:

- (a) on site sewage disposal systems,
- (b) dip sites,
- (c) land based waste disposal facilities, and
- (d) any land declared a significant risk site, or an investigation area under the *Contaminated Land Management Act 1997*.

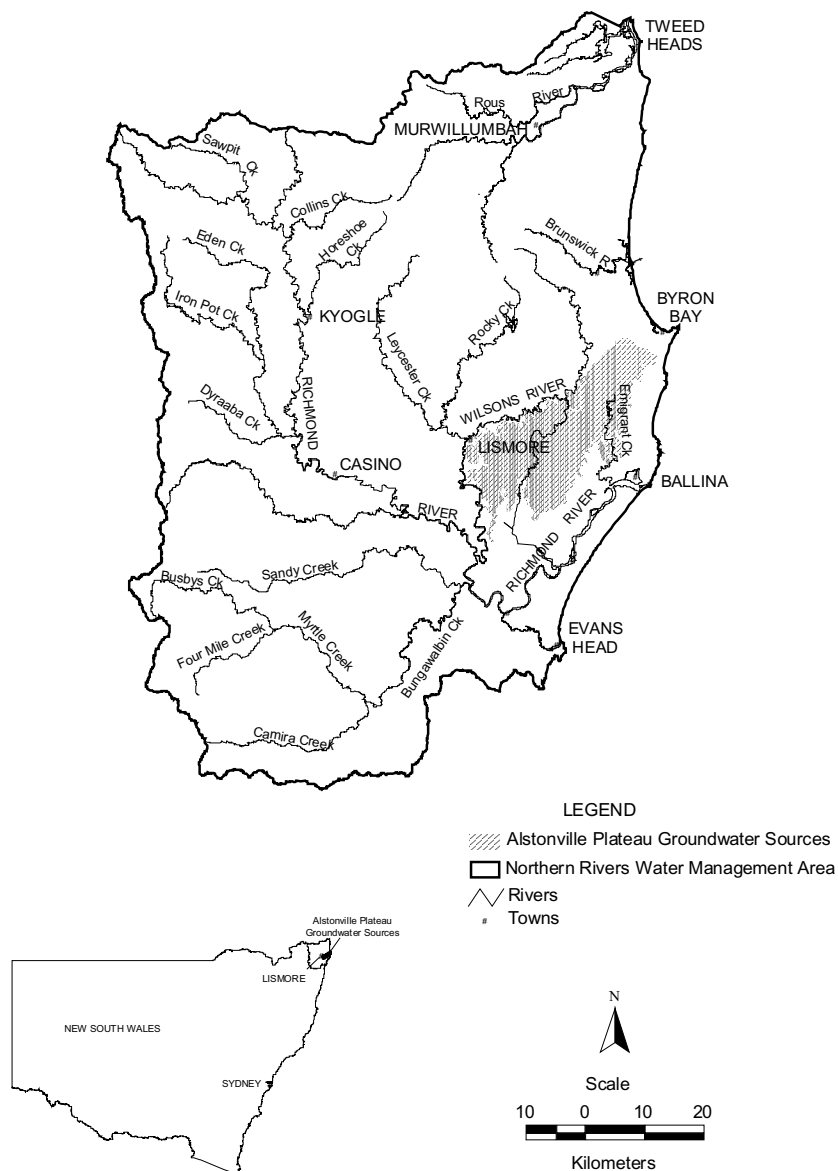
Note. The contamination sources listed in this Schedule may change during the period of this Plan. The Offices of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

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Schedule 5 High priority groundwater dependent ecosystems

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Appendix 1 Northern Rivers Water Management Area



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Appendix 2 Location of maps

The maps in relation to this Plan may be inspected at:

Regional Office
Department of Land and Water Conservation
76 Victoria Street
GRAFTON NSW 2460

District Office
Department of Land and Water Conservation
Office 3, Alstonville Plaza
Main Street
ALSTONVILLE NSW 2477

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Appendix 3 Performance indicators

Performance indicators for the Alstonville Plateau Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in groundwater extraction relative to the extraction limit.	All in clause 11	Average annual extraction volume for these groundwater sources as a percentage of the extraction limit (commonly known as the Sustainable Yield).	Plan provisions set the mechanism to remain within the Sustainable Yield over the long-term.
(b) Change in climate adjusted groundwater levels.	All in clause 11 except 11 (f)	- Average annual frequency and duration (in days) of water level drawdown below pre-plan baseline. - Density of extraction in critical areas.	Water levels will fluctuate with climate and resultant variable recharge. Some level declines will be expected during dry times, just as level rises are expected during wetter periods.
(c) Change in water levels adjacent to identified groundwater dependent ecosystems.	11 (c) 11 (e)	- Identification of groundwater dependent ecosystems (GDEs). - Assessment of the relationship between selected GDEs and local groundwater levels in terms of the water requirements of these GDEs. - Assessment of the adequacy of buffer zones or local impact restrictions by comparison of water levels near in or GDEs compared to plan baseline. - Frequency and duration of water level drawdown below critical levels.	Groundwater dependent ecosystems are identified.
(d) Change in groundwater quality.	11 (a) 11 (h)	Trends in selected water quality parameters at selected monitoring bores that are likely to be affected	Many water quality issues are a function of contamination by land based activities, rather than extraction.

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Performance indicators for the Alstonville Plateau Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
		by groundwater extraction.	
(e) Change in economic benefits derived from groundwater extraction and use.	11 (b) 11 (d) 11 (g)	- Change in regional gross margins. - Change in unit price of water traded.	- There are many factors affecting economic status of a region, for example commodity prices, other sources of water (i.e. surface water) etc. - Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan's provisions.
(f) Extent to which domestic and stock rights requirements have been met.	11 (g)	- Monitor increase in applications for water supply work (bore) approvals. - Number of reports of interference between high yield extraction and basic rights, or number of domestic and stock bores deepened. - Assess frequency and duration of water level drawdown below critical thresholds.	- Basic rights usage figures in water sharing plans are estimated (not actual use). - Increases in licences may be due to past unlicensed works.
(g) Extent to which local water utility requirements have been met.	11 (b)	- Monitor increase in access by local water utilities. - Monitor impact of interference between high yield extraction and local water utility extraction.	
(h) Extent to which native title rights requirements have been met.	11 (g)	- Monitor increase in applications for water supply work (bore) approvals for native title basic rights. - Number of reports of	

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Performance indicators for the Alstonville Plateau Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
		interference between high yield extraction and native title rights holders, or number of bores deepened. Assess frequency and duration of water level drawdown below critical thresholds.	
(i) Extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people.	11 (f)	- Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. - Number of referrals to Bundjalung Elders and relevant Aboriginal Land Council/s of applications for new access licences or transfers.	- The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. - It would be expected that at the end of five years there should be relevant information collected for each groundwater source, as a minimum requirement.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
 - (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction

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components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

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18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Coopers Creek Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Coopers Creek Water Source 2003

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Water Sharing Plan for the Coopers Creek Water Source 2003

Water Sharing Plan for the Coopers Creek Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Coopers Creek Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Northern Rivers Water Management Area known as the Coopers Creek Water Source (hereafter **this water source**) as shown on the map in Schedule 2.

Note. The Northern Rivers Water Management Area is as shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

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7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 5 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Water Sharing Plan for the Coopers Creek Water Source 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is for the environment of the Coopers Creek Water Source to receive the necessary water to sustain healthy functioning ecosystems and provide flows to downstream sub-catchments, and that an informed, water efficient community is provided with water to meet its needs.

11 Objectives

The objectives of this Plan are to:

- (a) provide opportunities for access to water in this water source for domestic and stock purposes while encouraging and supporting efficient, innovative water use, alternative water sources and drought management strategies,
- (b) ensure Aboriginal cultural needs are considered in flow management decisions for this water source, to enable maintenance and protection of values and places of importance under traditional laws, customs and practices,
- (c) protect the variability of natural flow conditions thereby maintaining and improving the overall health of this water source and related ecosystems, including threatened species,
- (d) preserve and maintain the functions of natural low flows in Coopers Creek and its tributaries, particularly during dry periods,
- (e) provide opportunities for access to water for irrigation and other commercial purposes in this water source,
- (f) enhance the health of the Wilsons River and the Richmond estuary by ensuring adequate downstream flow contributions from this water source, and
- (g) protect and improve water quality in this water source through the management of flows.

Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,

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- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in ecological condition of this water source and dependent ecosystems,
- (d) extent to which basic landholder rights requirements have been met,
- (e) change in economic benefits derived from water extraction and use,
- (f) extent to which native title rights requirements have been met,
- (g) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (h) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

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Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Richmond River Extraction Management Unit, and is shown on the map in Schedule 6.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) very low flow class:
 - (i) flows at or less than 14 megalitres per day (hereafter **ML/day**) for all months, excluding July, August and September, in years 1 to 5 of this Plan,

Note. 14 ML/day corresponds to the estimated 97th percentile of flows in the critical month of December, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) flows at or less than 20 ML/day during July, August and September in years 1 to 5 of this Plan,

Note. 20 ML/day corresponds to the estimated 93rd percentile of flows in the critical month of December, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (iii) flows at or less than 17 ML/day for all months excluding July, August and September, in years 6 to 10 of this Plan, and

Note. 17 ML/day corresponds to the estimated 95th percentile of flows in the critical month of December, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (iv) flows at or less than 31 ML/day during July, August and September in years 6 to 10 of this Plan,

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Note. 31 ML/day corresponds to the estimated 95th percentile of all days of flow, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.

- (b) A class:
 - (i) flows greater than 14 ML/day and at or less than 36 ML/day for all months excluding July, August and September, in years 1 to 5 of this Plan,
 - (ii) flows greater than 20 ML/day and at or less than 36 ML/day during July, August and September, in years 1 to 5 of this Plan,
 - (iii) flows greater than 17 ML/day and at or less than 36 ML/day for all months excluding July, August and September, in years 6 to 10 of this Plan, and
 - (iv) flows greater than 31 ML/day and at or less than 36 ML/day during July, August and September in years 6 to 10 of this Plan,
- (c) B class flows greater than 36 ML/day and at or less than 115 ML/day, and
- (d) C class flows greater than 115 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

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Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

(1) Environmental health water is identified and established as follows:

- (a) In very low flows, the flow occurring in this water source minus 0.05 ML/day, and minus the very low flow access permitted under clause 63 of this Plan.

Note. 0.05 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights and those access licences with access to very low flows.

- (b) In A class flows, the flow occurring in this water source minus 18.12 ML/day.

Note. 18.12 ML/day is the amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.

- (c) In B class flows, the flow occurring in this water source minus 58.12 ML/day.

Note. 58.12 ML/day is the amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.

- (d) In C class flows, the flow occurring in this water source minus 60.12 ML/day.

Note. 60.12 ML/day is the amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.

(2) Environmental health water is maintained as follows:

- (a) In very low flows:

- (i) the holders of access licences are not permitted any access, unless access is permitted in accordance with clause 63, and
- (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.05 ML/day.

Note. The Minister may issue an Order under section 323 or 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

- (b) In each of A class, B class and C class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 46,
- (ii) persons exercising domestic and stock and native title rights may take water, and
- (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.05 ML/day in this flow class the access to

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water for access licences will be reduced in accordance with clause 51 to maintain the environmental water in this flow class.

- (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 36 and 38, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the water extracted over the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and a contribution to improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.05 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 5,887 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences,
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act, or
 - (c) the granting of an application to an existing access licence holder under the provisions of clause 32 (3) (c), up to a maximum total additional share components in this water source of 3,000 ML/year.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,

Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) unregulated river access licence share components for existing access licence holders, providing individual daily extraction limits (hereafter **IDEL**) are surrendered as follows:
 - (i) the access licence share component may increase by 100% if all A class IDELs are surrendered,
 - (ii) the access licence share component may increase by 200% if all A and B class IDELs are surrendered,
 - (iii) IDEL in C class will not change,
 - (iv) to be eligible for additional share component under subclause (3) (c), the IDEL surrendered must be the full IDEL initially assigned to the access licence, as amended by clause 51,
 - (v) the share component that is increased in accordance with subclauses (3) (c) (i) or (ii) cannot exceed the initial share component of the access licence to which the IDEL was originally assigned,
 - (vi) the total daily extraction limit in clauses 46 and 47 will be reduced by the amount of IDEL surrendered in A and B class, and
 - (vii) the granting of these additional share component may continue as long as the additional share component for this water source resulting from subclause (3) (c) does not exceed 3,000 ML/yr,
 - (d) an access licence resulting from an application of a type listed in section 82 (1) of the Act,
 - (e) unregulated river (Aboriginal commercial) access licences, where the share component does not exceed 10 ML/yr per application,

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- (f) unregulated river (Aboriginal cultural) access licences where the share component does not exceed 10 ML/yr per application, or
 - (g) unregulated river (research) access licences where the share components does not exceed 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
 - (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
 - (6) Any IDEL granted in accordance with this clause will not exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 51.
 - (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
 - (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

33 Aboriginal assessment of new access licences

- (1) The Minister should seek the views of the Bundjalong Aboriginal Elders Council and the Ngulingah Aboriginal Land Council in relation to all dealings under sections 71D, 71F, 71J and 71G of the Act, and new access licence applications.
- (2) The Minister will consider any advice provided under subclause (1) before making a determination on an access licence application or dealing referred to in subclause (1).

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

34 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

35 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Richmond River Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

36 Long-term average extraction limit

The long-term average extraction limit for this Unit of which this water source is a part will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit,
- (b) an estimate of annual extraction of water (excluding those exercised via a water bore) under domestic and stock and native title rights in this Unit at the commencement of this Plan, and
- (c) any access licence share component granted in accordance with clause 32 (3) (c).

37 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

38 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 36, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in clause 43 (3).

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- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 36 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 36, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

39 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

40 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

41 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

Note. Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

42 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 38.

43 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous 2 available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

44 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

45 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

46 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:
 - (a) very low flow access as provided for in clause 63 for year 1 to year 5 of this Plan, and 0 ML/day in the very low flows for years 6 to 10 of this Plan,
 - (b) 18.07 ML/day for A class,
 - (c) 58.07 ML/day for B class, and
 - (d) 60.07 ML/day for C class.

Note. These flows represent 45% of the top of A class flows, 45% of the top of B class flows and in C class flows 30% of the 30th percentile flows in December.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

47 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Local water utility access licences:
 - (i) 0 ML/day of A class,
 - (ii) 0 ML/day of B class, and
 - (iii) 0 ML/day of C class.
- (b) Domestic and stock access licences:
 - (i) 0.07 ML/day of A class,
 - (ii) 0.07 ML/day of B class, and
 - (iii) 0.07 ML/day of C class.
- (c) Unregulated river access licences:
 - (i) 18 ML/day of A class,
 - (ii) 58 ML/day of B class, and
 - (iii) 60 ML/day of C class.

48 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

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Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

49 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 47 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

50 Granting of unassigned TDEL

- (1) Any unassigned TDEL may be assigned to access licences in the following circumstances:
 - (a) where they are granted as part of a new access licence,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 49, as amended by clause 51.

51 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 50, any unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 47 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first any unassigned TDEL then, if necessary, the TDEL for unregulated river access licences in clause 47 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:

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- (a) the IDEL requirements of applicants for new access licences for local water utility access, domestic and stock access, unregulated river (Aboriginal cultural) access and unregulated river (research) access, or
 - (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,
- then the TDEL for unregulated river access licences in clause 47 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
 - (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
 - (6) If A or B class daily extraction limits are surrendered in accordance with clause 32 (3) (c), the TDEL for unregulated river access licences in clause 46 (1) (b) and (c) and clause 47 (c) (i) and (ii) will be reduced to reflect this change, and the environmental health water in clause 21 (1) (b) and (c) increased by a corresponding amount.
 - (7) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 46 and 47 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 46 and 47 adjusted accordingly.

52 Administrative arrangements for managing access to daily flows

- (1) Notwithstanding the forgoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELs.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
 - (a) all access licences with IDELs shall be made part of a group maintained by the Minister, and
 - (b) access licences with IDELs will be assessed as a whole against their combined IDELs.
- (3) At any time when subclause (2) does not apply:
 - (a) access licence holders may make a request to form a group for their access licences,
 - (b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDEL, and

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- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.
- (4) Groups will be managed according to the following rules:
 - (a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
 - (b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
 - (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
 - (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
 - (e) an access licence may not be in more than one group, and
 - (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

53 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

54 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

55 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if:
- (a) any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 60, or
 - (b) the dealing would result in an access licence extraction component that had nominated a work outside of the Upper Coopers Creek Area, nominating a work within the Upper Coopers Creek Area, shown on the map in Schedule 2.

Note. Clause 57 relates to any dealings that involve an access licence moving from one water source to another.

56 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 55, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 50.

57 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if

Water Sharing Plan for the Coopers Creek Water Source 2003

permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source only if the access licence dealing rules in the other water source permit such a dealing, and
 - (a) the access licence cancelled is within this Unit, and
 - (b) the total access licence share components in this water source do not increase above those existing at the commencement of this Plan.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

58 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence, or
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component.

59 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

60 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are

Water Sharing Plan for the Coopers Creek Water Source 2003

permitted only if the access licence dealing rules in the other water source permit such a dealing.

- (4) Dealings that assign water allocations between access licences inside this water source, are permitted, subject to clause 55.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

61 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Water Sharing Plan for the Coopers Creek Water Source 2003

Part 12 Mandatory conditions

62 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

63 Very low flow access conditions

- (1) Notwithstanding the cease to pump conditions during very low flows established under clause 17 (a) (i) and (ii), holders of access licences listed in Schedule 4 are permitted access to very low flows during years 1 to 5 of this Plan for the following purposes:
 - (a) fruit washing,
 - (b) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (c) poultry misting, and
 - (d) cleaning of enclosures used for intensive animal production for the purposes of hygiene.
- (2) The maximum volume that can be extracted under subclause (1) is the minimum amount required to satisfy the purposes in that subclause, and will be specified on each access licence.
- (3) Notwithstanding subclauses (1) and (2), extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

Water Sharing Plan for the Coopers Creek Water Source 2003

64 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

65 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

66 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

67 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

Water Sharing Plan for the Coopers Creek Water Source 2003

68 Unregulated river (Aboriginal commercial) access licences

The following conditions shall be imposed on unregulated river (Aboriginal commercial) access licences:

- (a) water shall only be taken by, or on behalf of, Aboriginal communities or Aboriginal persons,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the licence specifies that water may only be taken from a runoff harvesting dam.

69 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

70 Unregulated river (research) access licences

All unregulated river (research) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other approved organisations, where any primary production resulting from the research program is not sold for profit,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

71 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence,
- (f) a 100 metre buffer will be applied between any endangered ecological community and the location of any new water supply work, if required to protect the endangered ecological community, and
- (g) appropriate buffers will be applied between any Aboriginal sites of spiritual, cultural or social values as identified by the Bundjalung Elders and the relevant Aboriginal Land Council, and the location of any new water supply work, if required to protect the Aboriginal sites of spiritual, cultural or social values.

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Part 13 Granting and amending water supply works approvals

72 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

73 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

74 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

75 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee, where one exists.

Note. Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

76 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

77 Assessment of fish passage requirements

- (1) The Minister may, under section 42 (2) of the Act, and by notice published in the NSW Government Gazette, vary the very low flow level established in clause 17 (a) (iv) and consequently the bottom of A class established in clause 17 (b) (iv), following an assessment of fish passage flow requirements.
- (2) Any variation made under subclause (1) may result in the very low flow level at clause 17 (a) (iv) being varied to any level within the range of 20 ML/day and 31 ML/day.
- (3) The Minister should cause the fish passage assessment in subclause (1) to be undertaken as part of the review of this Plan under section 43 (2) of the Act.
- (4) The fish passage assessment should assess whether the provisions in this Plan regarding fish passage flow requirements for the Eastern Freshwater Cod (*Maccullochella ikei*) have changed as a result of the removal or modification of artificial barriers in this water source.
- (5) In undertaking the assessment the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture, and the NSW National Parks and Wildlife Service, and
 - (b) prepare a report indicating the results and conclusions in terms of the degree to which the fish passage flow requirements are met.

78 Review of fish passage assessment

- (1) The Minister should seek advice from a review body on the report specified in clause 77 (5) (b) before varying this Plan in accordance with clause 77 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.

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- (3) The review body should provide advice to the Minister on the fish passage assessment report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

79 Other amendment of this Plan

This Plan can be amended in accordance with clause 51 in respect to adjustments to TDELs and IDELs.

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Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to an access licence share component when it is cancelled in one water source, and reissued in a different water source and visa versa, or when the access licence is converted from one category to another. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also *farm dam* and *runoff harvesting dam*.

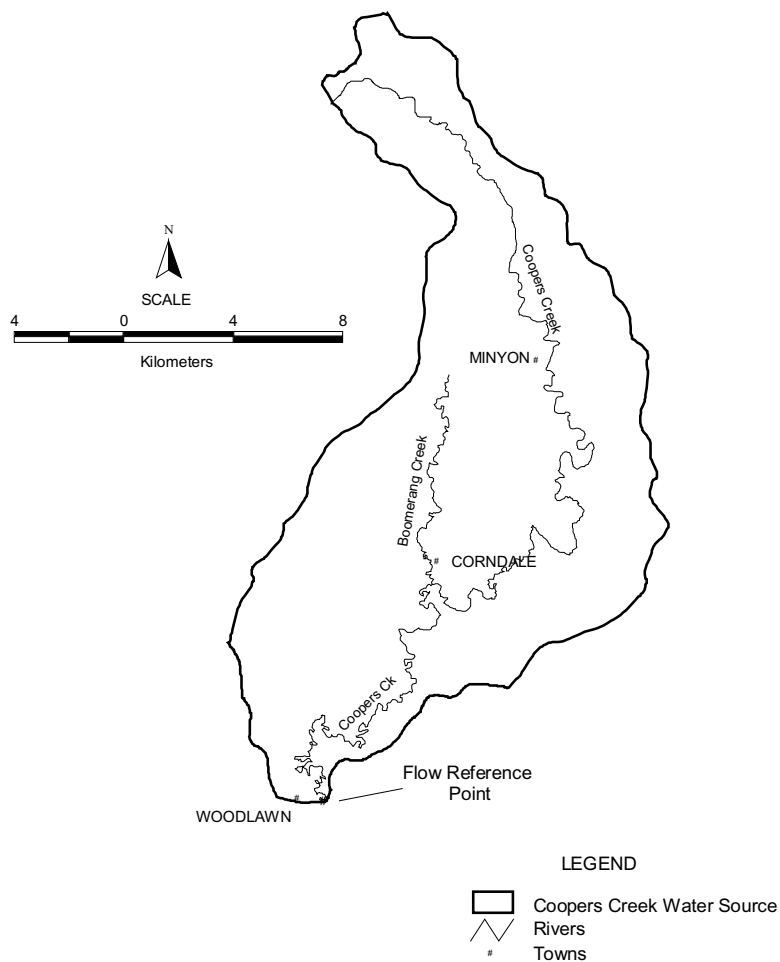
stock watering means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also *farm dam* and *in-river dam*.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Coopers Creek Water Source

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Schedule 3 Rivers in the Coopers Creek Water Source

This water source includes, without limitation:

Bennys Creek
Boomerang Creek
Byrangery Creek
Coopers Creek
Dans Creek
Little Bennys Creek
Numalgi Creek
Repentance Creek
Turkey Creek
Yankey Creek

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Schedule 4 Access licences with very low flow access

Access licence number	Purpose
30SL037403	Dairy washdown
30SL039693	Piggery hosedown
30SL040357	Crop spraying (insecticide and fertiliser)
30SL040380	Dairy washdown
30SL066269	Dairy washdown
30SL066308	Dairy washdown
30SL066309	Dairy washdown
30SL066320	Tree spraying

Note. The access licence details in this Schedule may change during the period of this Plan. The offices of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

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Schedule 5 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target is considered a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to the target

Relevant Target	Level of contribution	Comments
Target 1c Long term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	- Part 9 of this Plan sets out the basis for the extraction limit of the Richmond Extraction Management Unit. - Until the cumulative impact of this limit can be assessed for all of this Unit it is difficult to assess ecological sustainability and downstream impacts.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	- This Plan has put in place TDELs that will improve very low to moderate flows and protect 70 % of high flows. - This water source has been assessed as high conservation value and the improvement in flows should help to preserve these values although the flow protection will remain below 50% of natural for low to moderate flows. - The Eastern Freshwater Cod and the Oxylean Pygmy Perch are threatened species occurring in this water source. The TDELs in this Plan should assist the recovery of these species, particularly the Eastern Freshwater Cod, and an assessment and amendment clause has been included to review the fish passage requirements.
Target 4a Wherever the	FULL	In A Class, 50% of flow is protected

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frequency of “end of system” daily flows would be less than 60% of the pre-development level without environmental water rules or extraction limits, the flows increased to 60% of pre-development levels or increased by at least 10% of the pre-development frequency		which is more than a 10% improvement on estimated pre-plan, and substantially reduces full development impact. • In B Class, 50% of flow is protected which is more than a 10% improvement on estimated pre-plan and substantially reduces full development impact. • In C Class, 70% of flow is protected.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to pre-development levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the pre-development 95th percentile	FULL	• Cease to pump (CTP) levels for all months except July, August and September protect flows below 14 ML/day in years 1 to 5 and 17 ML/day in years 6 to 10 of this Plan, which is below the 95th percentile for all days. • CTP levels for July, August and September protects flows below 20 ML/day in years 1 to 5 and 31 ML/day in years 6 to 10 of this Plan which is below the 95th percentile for all days. • Field verification established high connectivity along the main trunk of Coopers Creek at 17 ML/day.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	• This Plan clarifies the access licence share component and IDELs for distribution to individual licences, and provides principles for dealing with them.
Target 6b For surface water sources, a pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	• Total licensed share components for the Richmond River Extraction Management Unit should not exceed 200% of extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water	HIGH	• The Government has established alternative mechanisms to address this target. • This Plan also provides market opportunities.

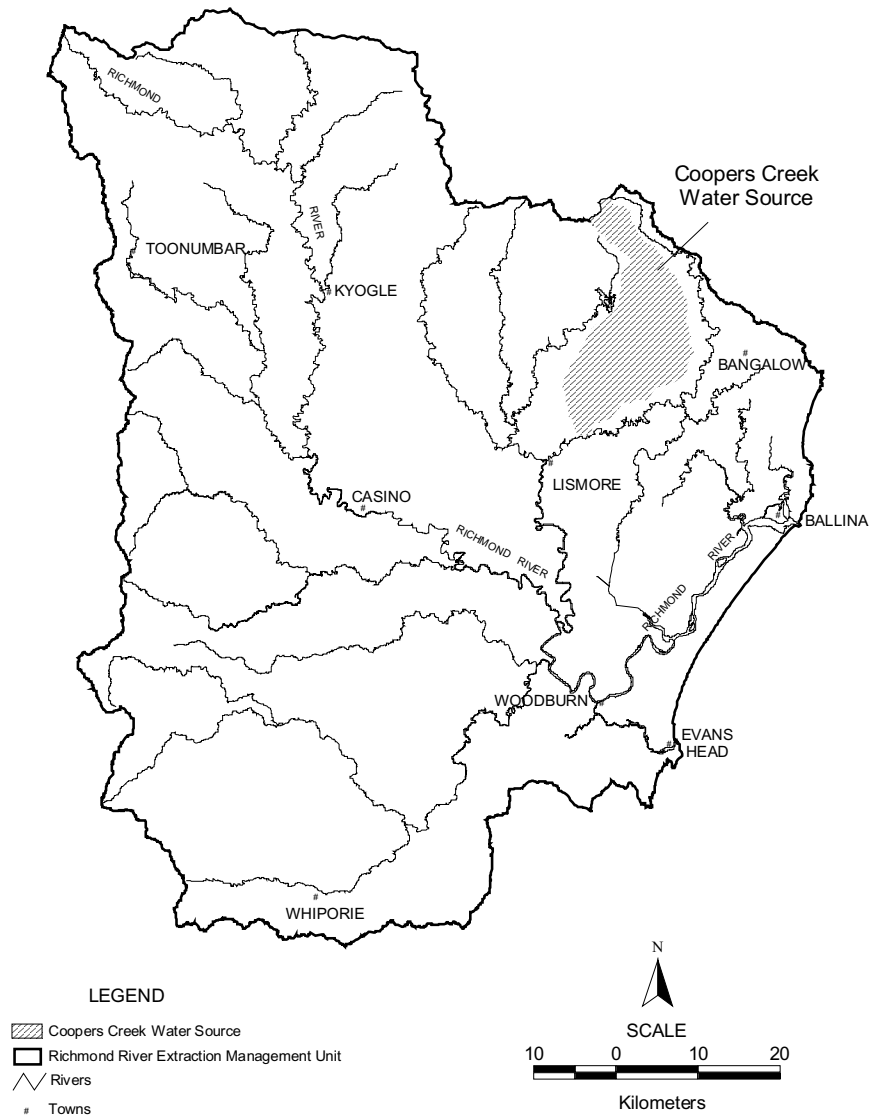
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economy		- This Plan provides an exemption from embargo for Aboriginal cultural purposes. - No unallocated water available.
Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers	FULL	This Plan establishes TDELs across the whole water source.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	Cease to pump level will protect flows for domestic and stock rights.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	Aboriginal community representatives have been actively involved in development of this Plan and their advice has been incorporated into this Plan.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	FULL	- Two Aboriginal community representatives were on the committee that prepared this Plan. - Meetings were held with the Bundjalung Elders, Ngulinghah and Fart North Coast Aboriginal Land Councils, and an Aboriginal Steering Committee for water sharing plans has been established.
Target 16a All share components of access licences tradeable	FULL	Part 11 of this Plan provides for trading of access licence share components and IDELs.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources,	FULL	This Plan establishes an exchange rate of 1:1 for trading between water sources in the Richmond Extraction Management Unit.

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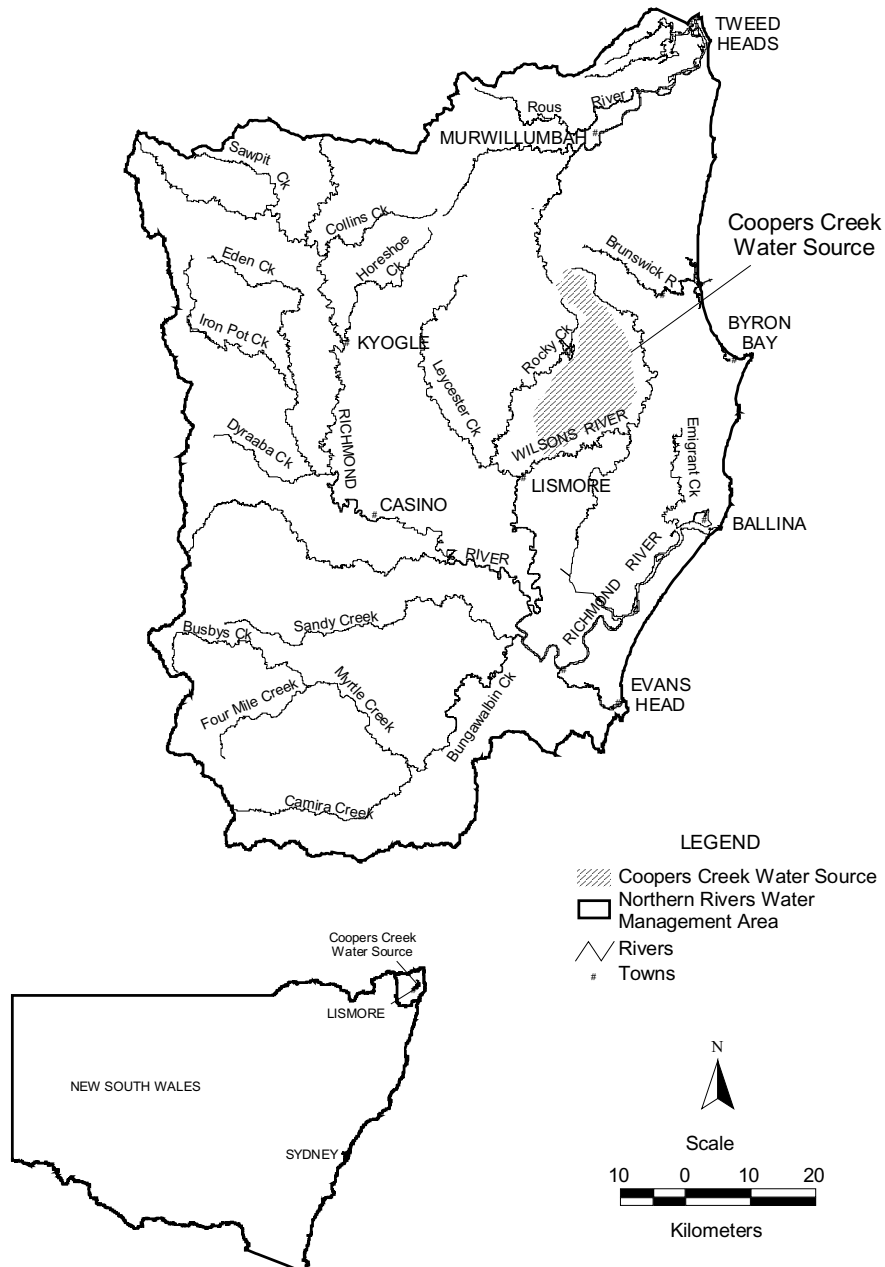
whilst also protecting existing access and environmental water		
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	This Plan does not impose reduction factors.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	N/A	This Plan has no unallocated water.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	HIGH	- This Plan establishes a trading zone for the Upper Coopers Creek Area. - The Upper Coopers Creek Area is important for seeding biodiversity through the Coopers Creek system and there are many significant and sacred sites for the Aboriginal people of the area, and facilitating reducing access licences in the Upper Coopers Creek Area would further these values.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	- This Plan includes a generalised water quality objective. - This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

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Schedule 6 Richmond River Extraction Management Unit


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Appendix 1 Northern Rivers Water Management Area



Water Sharing Plan for the Coopers Creek Water Source 2003

Appendix 2 Location of maps

The maps in relation to this Plan may be inspected at:

District Office
Department of Land and Water Conservation
Suite 6, Alstonville Plaza
ALSTONVILLE NSW 2477

Regional Office
Department of Land and Water Conservation
76 Victoria Street
GRAFTON NSW 2460

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Appendix 3 Performance indicators

Performance indicators for the Coopers Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (d) 11 (e) 11 (f) 11 (g)	Assessment of change in flow duration characteristics at identified reference points.	- River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. - Plan will contribute to a decrease in the frequency and duration of low flows. - This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a) 11 (e) 11 (f) 11 (g)	Assessment of change in flow duration characteristics at identified reference points.	- RFO 3. - Plan will maintain or increase the frequency and duration of moderate to high flows. - This assessment will focus on plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in ecological condition of this water source and dependent ecosystems.	11 (f) 11 (b) 11 (g)	Periodic assessment of identified indicators for ecological condition.	- Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. - There are many other factors that contribute to ecological objectives. - The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non

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Performance indicators for the Coopers Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
			- water sharing plan related factors (such as climate and catchment landuse changes).
(d) Extent to which basic landholder rights requirements have been met.	11 (a)	Assessment of cease to pump levels in relation to basic rights requirements.	Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(e) Change in economic benefits derived from water extraction and use.	11 (e) 11 (f) 11 (g)	- Number of days access provided. - Percentage change in number and volume of farm dams. - Change in unit price of water transferred.	- There are many factors affecting economic status of a region, for example commodity prices. - Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(f) Extent to which native title rights requirements have been met.	11 (b)	Assessment of cease to pump levels in relation to basic rights requirements.	The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(g) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (b)	- Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. - The number referrals to Local Aboriginal Land	- The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement. - Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values.

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Performance indicators for the Coopers Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
		Councils and Bundjalung Elders. • Information on the number of water transfers and number of new licence applications for interpretation.	
(h) Contribution to the achievement of water quality to support the environmental values of this water source.	11(g)	• Change in the baseline figures of identified water quality variables.	• Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

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farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, ***commitments to take water*** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or

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- (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

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12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:

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- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and

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- (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or

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- (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
 - (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
 - (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.

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- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or

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- (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and

Water Sharing Plan for the Coopers Creek Water Source 2003

- (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.

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- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources
2003

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Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003

Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Areas to which this Plan applies

The areas in respect of which this Plan is made are those areas of land within the Namoi Water Management Area known as the:

- (a) Phillips Creek Water Source,
- (b) Mooki River Water Source,
- (c) Quirindi Creek Water Source, and
- (d) Warrah Creek Water Source,

(hereafter **these water sources**) as shown on the maps in Schedules 2a to 2d, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

Note. The Namoi Water Management Area is shown on a map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

Note. Daily extraction limits are defined for each water source.

5 Waters to which this Plan applies

- (1) The waters of these water sources include all water occurring on the land surface shown on the maps in Schedule 2 including, but not limited to:
 - (a) all rivers in these water sources including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in these water sources.
- (2) The waters of these water sources exclude all water contained within aquifers underlying these water sources.

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- (3) The waters of these water sources exclude any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan, and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is to achieve a healthy, sustainable, productive catchment where the outcomes for the economic, social and environmental water needs are balanced.

11 Objectives

The objectives of this Plan are to:

- (a) implement the River Flow Objectives listed in Appendix 4, to protect, preserve, maintain or enhance the important river flow dependent environmental features, and cultural and Aboriginal heritage values of the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources, and to provide water for downstream subcatchments,
- (b) manage in-river water resources of the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources to ensure equitable sharing of water between all uses and users, including basic rights, and to minimise any adverse socio-economic impacts in regard to communities and individuals in these water sources,
- (c) protect the water resources of the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources by ensuring that extraction minimises any adverse environmental impacts,
- (d) ensure water extraction from the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creeks Water Sources is managed within Murray Darling Basin Cap for the Namoi Water Management Area,
- (e) provide rules for market based trading of access licence share components and individual daily extraction limits in the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources, and
- (f) contribute to the achievement of water quality to support the environmental values of the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources.

Note. Objective (f) refers to protecting and improving water quality. Although there are no specific strategies directly relating to this objective in this Plan, the environmental water provisions in this Plan should make a positive contribution to maintaining water quality.

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12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from these water sources,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on these water sources.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities access,
- (d) change in ecological condition of these water sources and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of these water sources.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in these water sources.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in these water sources within the limits of water availability on a long-term average basis, and
 - (b) the sharing of the flows that occur in these water sources on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from these water sources on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which these water sources are part is known as the Namoi Unregulated Rivers Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

- (1) The following flow classes are established in the Phillips Creek Water Source as the basis for sharing of daily flows:
 - (a) very low flow class at or less than 2 megalitres per day (hereafter **ML/day**),
Note. The 2 ML/day corresponds to the estimated 45th percentile of flows for all days of the year, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (b) C class flows greater than 2 ML/day and at or less than 63 ML/day, and
 - (c) D class flows greater than 63 ML/day.
- (2) The following flow classes are established in the Mooki River Water Source as the basis for sharing of daily flows:
 - (a) very low flow class at or less than 100 ML/day on a rising river and at or less than 50 ML/day on a falling river, as measured at the Mooki River at Breeza and protected through to the end of the system,
Note. The 100 ML/day corresponds to the estimated 18th percentile of flows for all days of the year, and is referred to as the cease to pump on a rising river and the 50 ML/day is referred to as the commence to pump on a falling.
 - (b) C class flows greater than 100 ML/day and at or less than 1,000 ML/day,
 - (c) D class:

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- (i) flows greater than 1,000 ML/day and at or less than 3,000 ML/day at the Mooki River at Breeza for all access licences in the Mooki River Water Source, or
 - (ii) for all access licences only nominating works downstream of the Werris Creek inflow, flows greater than 1,000 ML/day and at or less than 3,000 ML/day at Mooki River at Ruvigne, if flows at Mooki River at Breeza are less than 50 ML/day, and
- (d) E class:
 - (i) flows greater than 3,000 ML/day at Mooki River at Breeza for all access licences in the Mooki River Water Source, or
 - (ii) for all access licences only nominating works downstream of the Werris Creek inflow, flows greater than 3,000 ML/day at Mooki River at Ruvigne, if flows at Mooki River at Breeza are less than 50 ML/day.
- (3) The following flow classes are established in the Quirindi Creek Water Source as the basis for sharing of daily flows:
 - (a) very low flow class at or less than 2 ML/day,
Note. The 2 ML/day corresponds to the estimated 50th percentile of flows for all days of the year, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (b) C class flows greater than 2 ML/day and at or less than 100 ML/day, and
 - (c) D class flows greater than 100 ML/day.
- (4) The following flow classes are established in the Warrah Creek Water Source as the basis for sharing of daily flows:
 - (a) very low flow class at or less than 4 ML/day,
Note. The 4 ML/day corresponds to the estimated 50th percentile and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (b) C class flows greater than 4 ML/day and at or less than 185 ML/day, and
 - (c) D class flows greater than 185 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, unless otherwise specified, all flows referred to relate to the estimated flows at the flow reference point for each water source, as shown on the maps in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
- (a) For the Phillips Creek Water Source:
- (i) In very low flows, the flow occurring minus 1 ML/day.
Note. 1 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights for this water source.
- (ii) In C class flows, the flow occurring minus 6 ML/day.
Note. 6 ML/day is the amount of water estimated at the commencement of the Plan for C class total daily extraction limit plus basic landholder rights for this water source.
- (iii) In D class flows, the flow occurring minus 22 ML/day.
Note. 22 ML/day is the amount of water estimated at the commencement of the Plan for D class total daily extraction limit plus basic landholder rights for this water source.
- (b) For the Mooki River Water Source:
- (i) In very low flows, the flow occurring minus 1.1 ML/day.
Note. 1.1 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights for this water source.
- (ii) In C class flows, the flow occurring minus 801.1 ML/day in the first 6 years of this Plan.
- (iii) In C class flows, the flow occurring minus 601.1 ML/day in the last 4 years of this Plan.
Note. 801.1 ML/day and 601.1 ML/day in subclauses (b) (ii) and (iii) respectively are the amounts of water estimated for C class total daily extraction limit plus basic landholder rights for this water source at the commencement of the Plan and after year 6 respectively.
- (iv) In D class flows, the flow occurring minus 1,501.1 ML/day.
Note. 1,501.1 ML/day is the amount of water estimated at the commencement of the Plan D class total daily extraction limit plus basic landholder rights for this water source.
- (v) In E class flows, the flow occurring minus 2,101.1 ML/day.
Note. 2,101.1 ML/day is the amount of water estimated at the commencement of the Plan for E class total daily extraction limit plus basic landholder rights for this water source.
- (c) For the Quirindi Creek Water Source:
- (i) In very low flows, the flow occurring minus 0.7 ML/day.
Note. 0.7 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights for this water source.

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- (ii) In C class flows, the flow occurring minus 9.7 ML/day.
Note. 9.7 ML/day is the amount of water estimated at the commencement of the Plan for C class total daily extraction limit plus basic landholder rights for this water source.
 - (iii) In D class flows, the flow occurring minus 70.7 ML/day.
Note. 70.7 ML/day is the amount of water estimated at the commencement of the Plan for D class total daily extraction limit plus basic landholder rights for this water source.
 - (d) For the Warrah Creek Water Source:
 - (i) In very low flows, the flow occurring minus 1.9 ML/day.
Note. 1.9 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights for this water source.
 - (ii) In C class flows, the flow occurring minus 6.9 ML/day.
Note. 6.9 ML/day is the amount of water estimated at the commencement of the Plan for C class total daily extraction limit plus basic landholder rights for this water source.
 - (iii) In D class flows, the flow occurring minus 14.4 ML/day.
Note. 14.4 ML/day is the amount of water estimated at the commencement of the Plan for D class total daily extraction limit plus basic landholder rights for this water source.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 1 ML/day in Phillips Creek Water Source, 1.1 ML/day in Mooki River Water Source, 0.7 ML/day in Quirindi Creek Water Source and 1.9 ML/day in the Warrah Creek Water Source.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from these water sources to protect the environment for reasons of public health, or to preserve basic landholder rights.
 - (b) In C class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 1 ML/day in the Phillips Creek Water Source, 1.1 ML/day in the Mooki River Water Source, 0.7 ML/day in the Quirindi Creek Water Source and 1.9 ML/day in the Warrah Creek Water Source, the access to water for access licences in this flow class will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
 - (c) In D class flows:

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- (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 1 ML/day in the Phillips Creek Water Source, 1.1 ML/day in the Mooki River Water Source, 0.7 ML/day in the Quirindi Creek Water Source and 1.9 ML/day in the Warrah Creek Water Source, the access to water for access licences in this flow class will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
- (d) In E class flows in the Mooki River Water Source:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 1.1 ML/day, the access to water for access licences in this flow class will be reduced in accordance with clause 50 if this is necessary to maintain the environmental water in this flow class.
- (e) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the extraction of water on a long term basis, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

Note. Groundwater extraction may affect surface water flows, and this interaction should be addressed in the water sharing plans for groundwater, and as part of the reviews at year 5 of this Plan and any relevant groundwater sharing plans in the area.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

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24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of:
 - (a) 1 ML/day in the Phillips Creek Water Source,
 - (b) 1.1 ML/day in the Mooki River Water Source,
 - (c) 0.7 ML/day in the Quirindi Creek Water Source, and
 - (d) 1.9 ML/day in the Warrah Creek Water Source.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in these water sources and/or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/day
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these water sources having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note. The amount of water specified in this Part represents the total volumes specified on access licences in these water sources. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within these water sources will total approximately:
 - (a) 426 megalitres per year (hereafter **ML/yr**) in the Phillips Creek Water Source,
 - (b) 27,449 ML/yr in the Mooki River Water Source,
 - (c) 2,458 ML/yr in the Quirindi Creek Water Source, and
 - (d) 264 ML/yr in the Warrah Creek Water Source.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in these water sources, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within these water sources may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in these water sources and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in these water sources, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's access licence share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences, or
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in these water sources shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water from these water sources will be undertaken in the context of the Namoi Unregulated Rivers Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under:
 - (i) domestic and stock rights, and
 - (ii) native title rights,in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in clause 42 (3).

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- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be such a volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such a volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, the available water determination for the following water accounting year for unregulated river access licences in these water sources should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, then the available water determination for unregulated river access licences in these water sources shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determinations for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b) and 21 (a) of the Act, having regard to:

- (a) the environmental water provisions established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in these water sources.

Note. Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,

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- (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous two available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and

- (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) For the Phillips Creek Water Source:

- (i) 5 ML/day for C class, and
- (ii) 21 ML/day for D class.

Note. These flows represent 8% of the top of C class flows, and in D class 21% of the 5th percentile flows for the year (all days).

- (b) For the Mooki River Water Source:

- (i) 800 ML/day for C class for the first 6 years of this Plan,
- (ii) 600 ML/day for C class for the last 4 years of this Plan,
- (iii) 1,500 ML/day for D class, and
- (iv) 2,100 ML/day for E class.

Note. These flows represent 80% of the top of C class flows in the first 6 years and 60% of the top of C class flows in the last 4 years, 50% of the top of D class flows and in E class flows 33% of the 1st percentile flows for the year (all days).

- (c) For the Quirindi Creek Water Source:

- (i) 9 ML/day for C class, and
- (ii) 70 ML/day for D class.

Note. These flows represent 9% of the top of C class flows, and in D class 45% of the 5th percentile flows for the year (all days).

- (d) For the Warrah Creek Water Source:

- (i) 5 ML/day for C class, and
- (ii) 12.5 ML/day for D class.

Note. These flows represent 2.7% of the top of C class flows, and in D class 5% of the 5th percentile flows for the year (all days).

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within these water sources apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

- (1) The TDEL for each flow class will initially be assigned to categories of access licences in the Phillips Creek Water Source according to the following:
 - (a) Local water utility access licences:
 - (i) 0 ML/day of C class, and
 - (ii) 0 ML/day of D class.
 - (b) Domestic and stock access licences:
 - (i) 0.03 ML/day of C class, and
 - (ii) 0.03 ML/day of D class.
 - (c) Unregulated river access licences:
 - (i) 4.97 ML/day of C class, and
 - (ii) 20.97 ML/day of D class.
- (2) The TDEL for each flow class will initially be assigned to categories of access licences in the Mooki River Water Source according to the following:
 - (a) Local water utility access licences:
 - (i) 0 ML/day of C class,
 - (ii) 0 ML/day of D class, and
 - (iii) 0 ML/day of E class.
 - (b) Domestic and stock licences, 0.1 of C, D, and E flow classes.
 - (c) Unregulated river access licences:
 - (i) 799 ML/day of C class for the first 6 years of this Plan,
 - (ii) 599 ML/day of C class for the last 4 years of this Plan,
 - (iii) 1,499 ML/day of D class, and
 - (iv) 2,099 ML/day of E class.
- (3) The TDEL for each flow class will initially be assigned to categories of access licences in the Quirindi Creek Water Source according to the following:
 - (a) Local water utility access licences:
 - (i) 0 ML/day of C class, and
 - (ii) 0 ML/day of D class.

Note. The Werris Creek town water supply is extracted from Coepolly dam on Quipolly Creek. No daily extraction limits have been assigned to this licence. The rules governing the local water utility access are set out in clause 63.
 - (b) Domestic and stock licences, 0.2 ML/day of C and D flow classes.
 - (c) Unregulated river access licences:
 - (i) 8.8 ML/day of C class, and
 - (ii) 69.8 ML/day of D class.
- (4) The TDEL for each flow class will initially be assigned to categories of access licences in the Warrah Creek Water Source according to the following:

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- (a) Local water utility access licences:
 - (i) 0 ML/day of C class, and
 - (ii) 0 ML/day of D class.
- (b) Domestic and stock licences, 0.04 ML/day of C and D flow classes.
- (c) Unregulated river access licences:
 - (i) 4.96 ML/day of C class, and
 - (ii) 12.46 ML/day of D class.

47 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL in any of these water sources.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 for each water source as its share component bears to all the share components of licences of that category in that water source.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) Any unassigned TDEL in a water source may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48 for that water source, as amended by clause 50.

50 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category for the appropriate water source in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan for any of these water sources:
 - (a) first the unassigned TDEL specified in clause 47 for that water source then, if necessary, the TDEL for unregulated river access licences in clause 46 for that water source shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence in that water source will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL for any of these water sources cannot meet either:
 - (a) the IDEL requirements of applicants for new domestic and stock access licences, or
 - (b) a local water utility's IDEL requirements,then the TDEL for unregulated river access licences in that water source in clause 46 will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licence in subclause (3) the IDELs of each unregulated river access licence in that water source will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If water that, pursuant to an access licence,:
 - (a) is committed to adaptive environmental water, then the TDEL for categories and classes specified on the committed access licence will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for categories and classes specified on the committed access licence will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

- (1) Notwithstanding the foregoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELs.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
 - (a) all access licences in each of these water sources with IDELs shall be made part of a group maintained by the Minister for that water source, and

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- (b) access licences with IDELs will be assessed as a whole against their combined IDELs in each water source.
- (3) At any time when subclause (2) does not apply:
 - (a) access licence holders may make a request to form a group for their access licences,
 - (b) access licence holders may have their licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDELs, and
 - (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.
- (4) Groups will be managed according to the following rules:
 - (a) daily extraction by a group cannot exceed the combined IDELs of all licences in the group,
 - (b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
 - (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
 - (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
 - (e) an access licence may not be in more than one group, and
 - (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using the water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 20 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 5.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this plan, section 71L of the Act provides for the access licence dealing rules in this plan to prevail.

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within these water sources under section 71G of the Act.

- (2) Dealings are prohibited under this clause if:

- (a) any of the access licences or water allocations involved are not within these water sources, unless the dealing is permitted under clause 59.

Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

- (b) the dealing would result in more than minimal harm occurring to the water source and the environment, or

- (c) the dealing results in the access licence extraction component in one water source to which the Plan applies being assigned to an access licence in another water source to which this Plan applies.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 49 (1) (c).

56 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

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Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings under section 71E of the Act are prohibited in these water sources, unless provided for in this clause.
- (3) An access licence with a share component specifying one of these water sources may be cancelled and a new licence issued in another water source only if:
 - (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in one of these water sources under this dealing only if the access licence dealing rules in the other water source permit such a dealing, and:
 - (a) the access licence cancelled is within this Unit, or
 - (b) the access licence cancelled is within the Namoi Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from a regulated river access licence to unregulated river access licence.

Note. This will occur directly following a dealing under section 71E of the Act that changes the water source to which the access licence applies.

- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

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58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of these water sources are prohibited.

59 Rules for water allocation assignment between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in these water sources are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside the water sources to which this Plan applies and access licences outside the water sources to which this Plan applies, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences in the water sources to which this Plan applies, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from these water sources are prohibited.

Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (c) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

- (1) All local water utility access licences shall have mandatory conditions to give effect to the following:
 - (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,

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- (b) water may only be taken in accordance with a flow class determined by the Minister, if specified on the access licence, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
 - (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while that dam is passing inflows specified as a condition on the access licence.
- (2) Additional operational conditions for Coepolly Dam (hereafter *the Dam*) on Quipolly Creek, operated for the Werris Creek local water utility access licence in the Quirindi Creek Water Source, held by Parry Shire Council, will be applied as follows:
 - (a) there will be a release from the Dam into Quipolly Creek downstream of the Dam, of a continuous flow of water of not less than 10 litres per second, whenever the inflow to the Dam storage is greater than 10 litres per second, and
 - (b) in the event that the inflow into the Dam storage is less than 10 litres per second, the release from the Dam will be equivalent to that entering the Dam at the time, unless a lesser release is approved by the Minister.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Mandatory conditions on water supply works approvals

All approvals for water supply works in these water sources shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:

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- (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work, and
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence.

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Part 13 Granting and amending water supply works approvals

67 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

68 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

69 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

70 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee, where one exists.

Note. Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

Part 15 Amendment of this Plan

71 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

72 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels and the bottom of C class in the Mooki River Water Source established in clause 17, following hydrologic analysis and field verification.
- (2) Any variation made under subclause (1) should not result in a variation of the very low flow levels specified in clause 17 (2) (a), other than the inclusion of an end of system flow specified as a cease to pump measured at the Mooki River at Ruvigne of not more than 50 ML/day for all access licences only nominating works downstream of Breeza.
- (3) The Minister should cause the hydrologic analysis and field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The hydrologic analysis and field verification should assess the degree to which the very low flow class in the Mooki River is protected through to the end of the system.
- (5) In undertaking the hydrologic analysis and field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and other interest groups as represented by the Catchment Management Board, and
 - (b) cause a report to be prepared documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the analysis and field results and conclusions in terms of the degree to which the objective in subclause (4) is met,
 - (iv) the flow level changes recommended to meet the objective in subclause (4), and
 - (v) the socio-economic impacts of recommended changes to the flow level.

73 Review of field verification

- (1) The Minister should seek advice from a review body on the report specified in clause 72 (5) (b) before varying this Plan in accordance with clause 72 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:

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- (a) a water management committee with water sharing responsibilities for this water source if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels for the Mooki River Source.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

74 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELs and IDELs.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

Cap is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

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individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within these water sources.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

stock watering means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

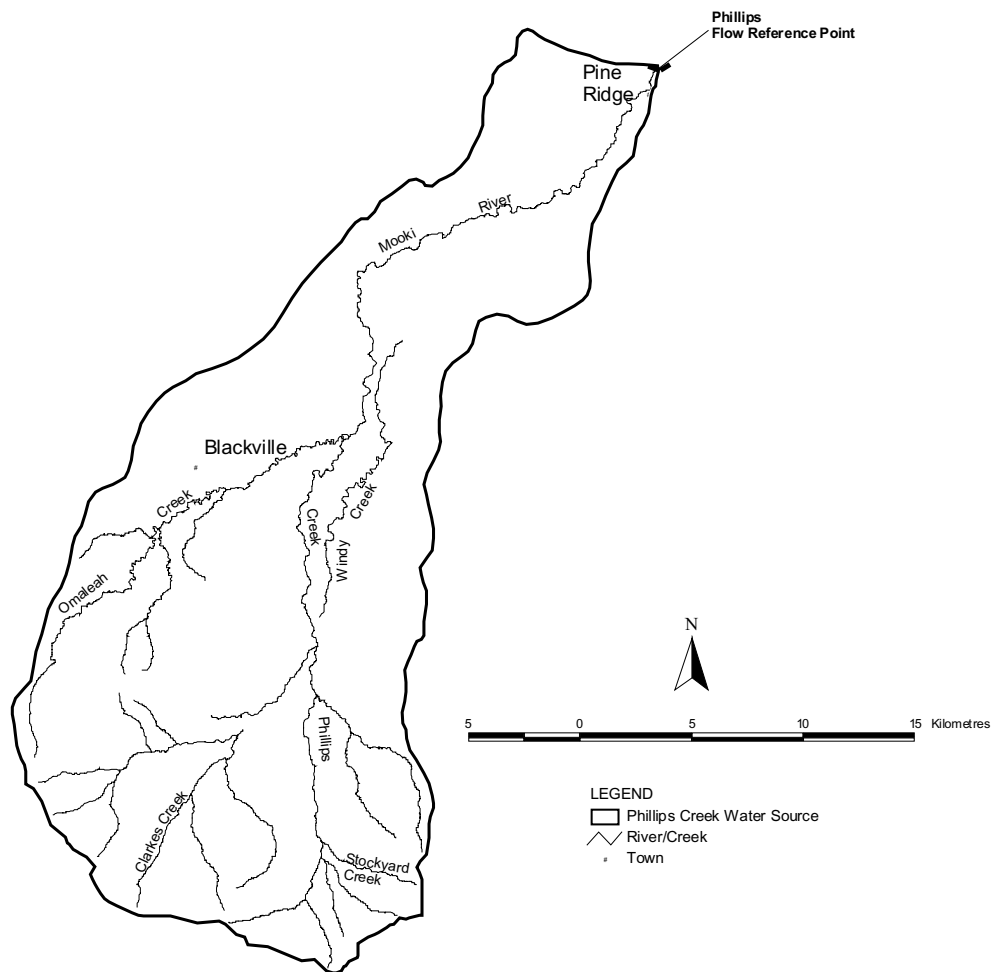
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

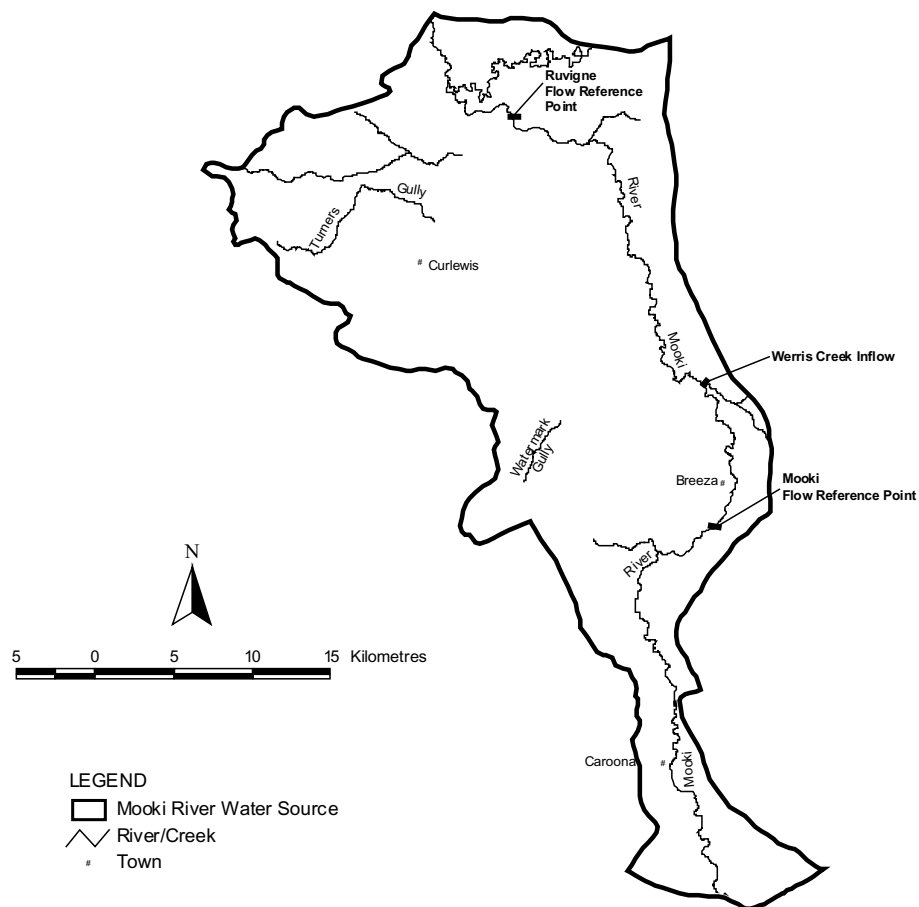
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Schedule 2 (a) Phillips Creek Water Source



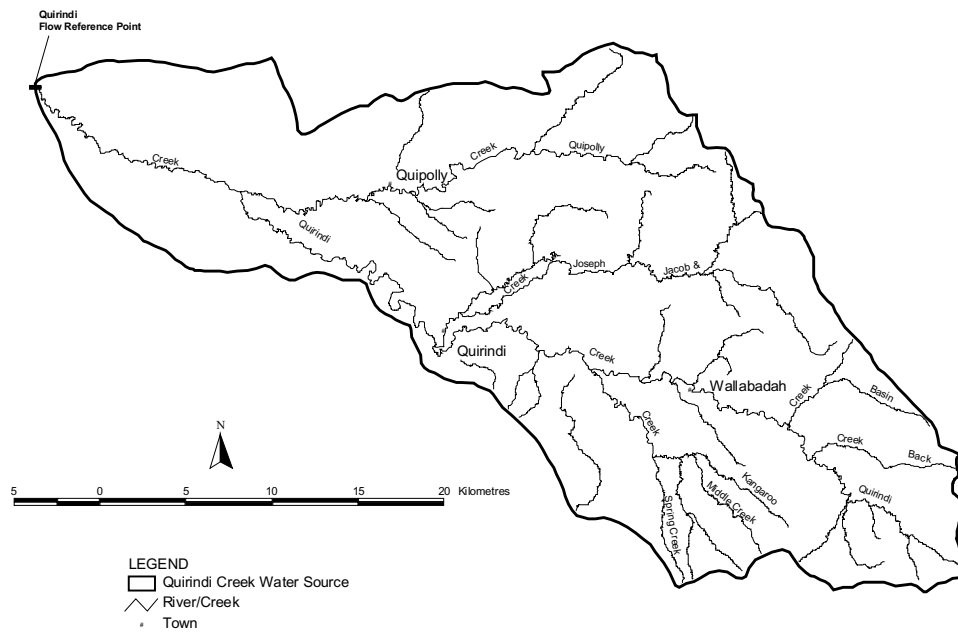
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Schedule 2 (b) Mooki River Water Source



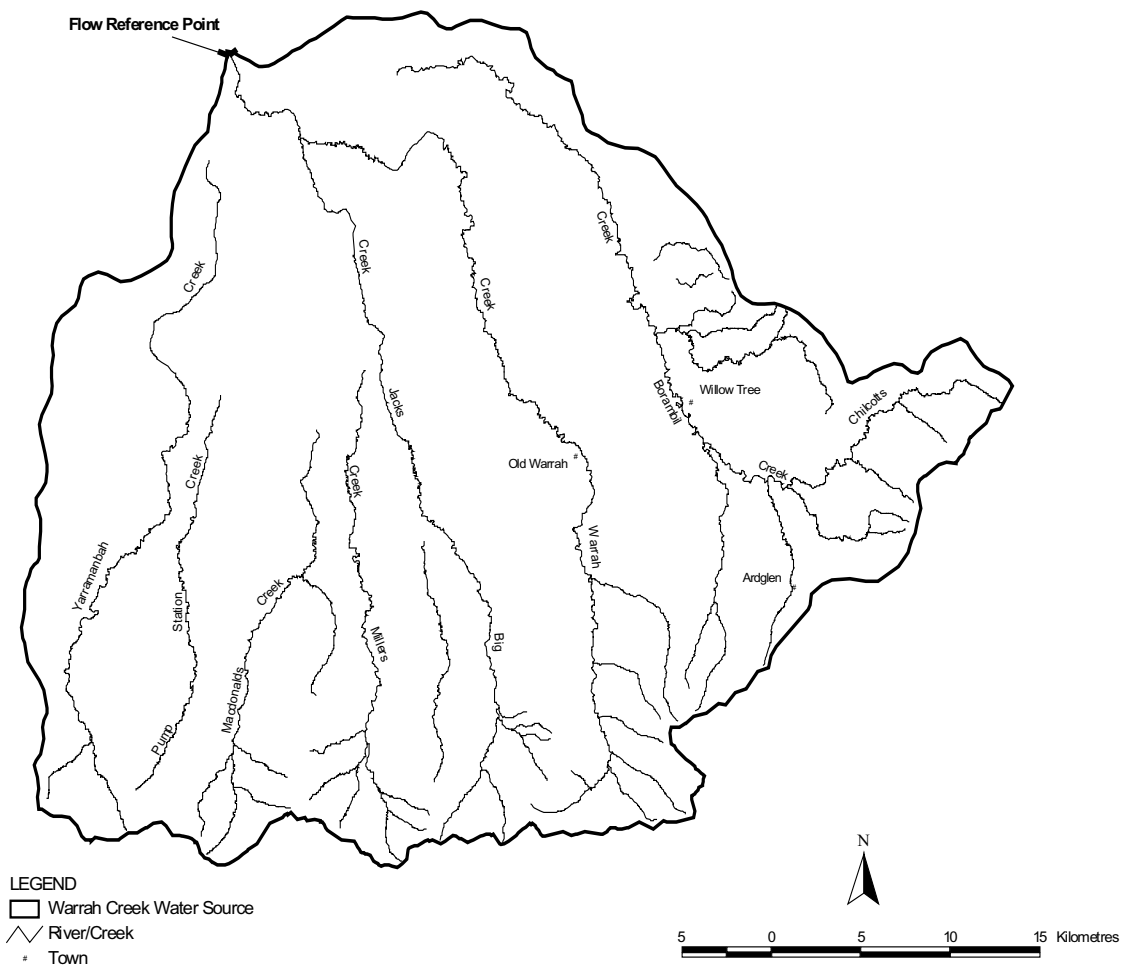
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Schedule 2 (c) Quirindi Creek Water Source



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Schedule 2 (d) Warrah Creek Water Source



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Schedule 3 Rivers in the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources

Phillips Creek Water Source includes:

Black Creek	Omelah Creek
Cattle Creek	Phillips Creek
Clarkes Creek	Spring Creek
Larrys Creek	Windy Creek

Mooki River from the confluence of Omelah Creek and Phillips Creek to its confluence with Warrah Creek

Mooki River Water Source includes:

Carroll Creek	Peach Tree Gully
Coghill Ponds	Turners Gully

Mooki River from its confluence with Warrah Creek to its confluence with the Namoi River

Quirindi Creek Water Source includes:

Allens Creek	Kangaroo Creek
Back Creek	Quipolly Creek
Basin Creek	Quirindi Creek
Basin Gully	Sebastopol Creek
Company Creek	Spring Creek
Jacob and Joseph Creek	Wiles Gully
Jacob and Joseph Gully	

Warrah Creek Water Source includes:

Back Creek	Little Jacks Creek
Big Jacks Creek	MacDonalds Creek
Borambil Creek	Millers Creek
Chilcotts Creek	Pump Station Creek
Colly Creek	Warrah Creek
Doughboy Hollow Creek	Yarramanbah Creek
Dry Creek	

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target, there is a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1b Extractions in Murray-Darling Basin's unregulated rivers limited to the MDBMC Cap level	FULL	This Plan sets out the basis for the extraction limit for these water sources.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	- Protects very low flows below 95th percentile in these water sources and field inspections indicated these should be adequate for environmental needs. - Has put in place TDELs to protect over 90% of flows excepted in Mooki River Water Source. - The flows are improved relative to current in Mooki River Water Source (excepting during D class). - In the other water sources this Plan allows for further reductions in flow and will protect greater proportion of flows compared to full development under pre-plan rules. - At least 3 listed threatened fish species are likely to occur in the Mooki River Water Source (silver perch, purple spotted gudgeon, olive perchlet). There are no recovery

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		plans in place, therefore no specific provisions in this Plan. The high level of flow protection (over 90%) in Phillips, Quirindi and Warrah Water Sources should maintain/improve conditions for these species, while the flow improvements in the Mooki River Water Source may help improve conditions for these species.
Target 4a Wherever the frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency	HIGH	- Meets the target in all cases except Mooki River Water Source where class D fails to achieve any improvement on pre-plan, and reducing the TDEL to 1,350 ML/day would meet the target. - Phillips – C class – 92% of flow protected, D class – 97% of flow protected. - Mooki – C class – 20% (year 1-6) 40% (year 7-10) of the flow is protected, this is over 10% improvement on pre-plan, D class – 50% of flow protected however this does not improve on pre-plan, E class – 67% of flow is protected. - Quirindi – C class – 91% of the flow (minus the local water utility impact) is protected, D class – 94% of the flow (minus the local water utility impact) is protected. - Warrah – C class – 97% of the flow is protected, D class – 96% of the flow is protected.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the	FULL	- Cease to pump (CTP) levels are set at a minimum of the 95th percentile of all days with (non-zero) flow in all four water sources. - The environmental appropriateness of this level was verified by field inspection.

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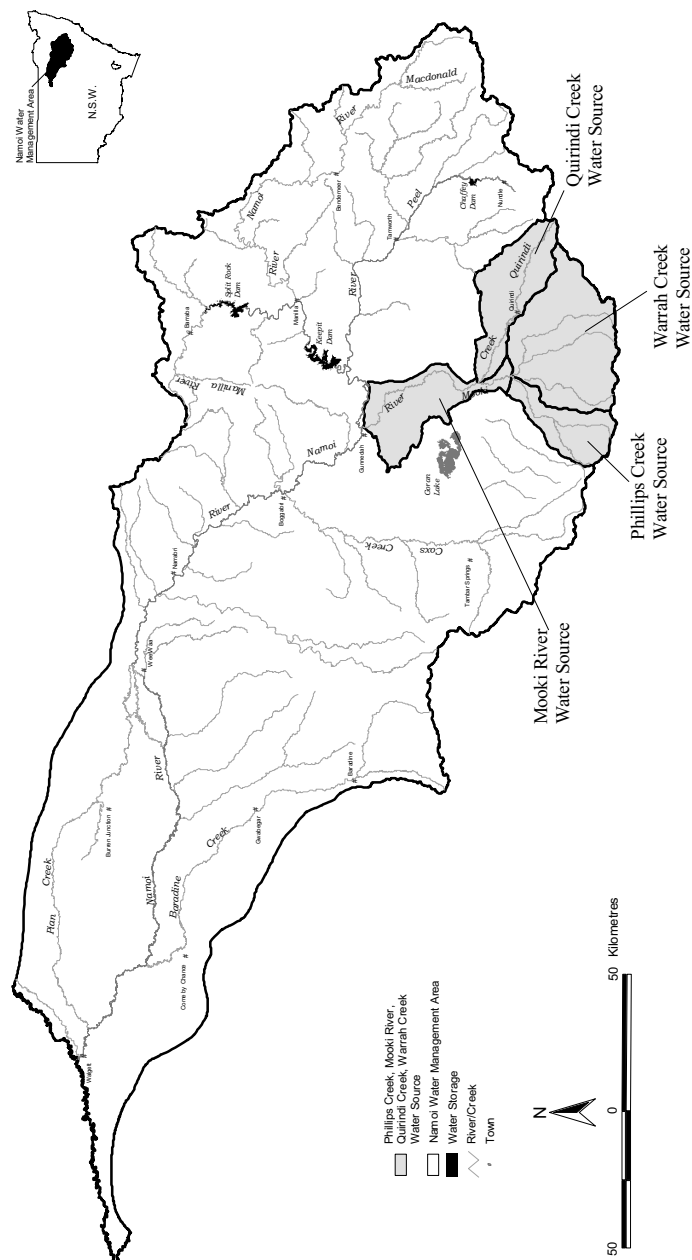
predevelopment 95th percentile		
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	This Plan recognises the access licence share components and establishes TDELs for distribution to individual licensees, and also enables water trading of access licence share components, IDELs and account water.
Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	Total licensed share components for the Namoi Unregulated Rivers Extraction Management Unit should not exceed 200% of extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	PARTIAL	- The Government has established other mechanisms to address this target. - This Plan does provide broad market opportunity. - This Plan does not establish unassigned water.
Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50% of unregulated river access licences and for 80% of stressed unregulated rivers	FULL	This Plan establishes TDELs across these water sources.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	- Domestic and stock basic rights are estimated at 5.1 ML/day. - The upstream zone CTPs (3 times 2 ML/day) should ensure that the basic rights requirements are met during very low flow periods.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	2 Aboriginal community representatives were involved in development of this Plan. - The committee that prepared this Plan attended Aboriginal cultural awareness training. - Meetings were held with local

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or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them		identified and the impact of this Plan assessed against these. • This Plan does provide a reasonable level of environmental protection/improvement which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	• Part 11 of this Plan provides for trading of access licence share component, IDELs and account water.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	HIGH	• Part 11 of this Plan establishes an exchange rate of for trading between unregulated water sources in the Namoi Unregulated Rivers Extraction Management Unit and other water sources subject to Ministers determination.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	• This Plan does not impose reduction factors.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	HIGH	• No unassigned rights in this Plan.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	• This Plan includes an objective to implement the flow related water quality objectives.

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Appendix 1 Namoi Water Management Area



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Appendix 2 Location of maps for public inspection

The maps in relation to this Plan may be inspected at:

Regional Office
Department of Land and Water Conservation
Noel Park House
Level 3
155-157 Marius Street
TAMWORTH NSW 2340

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Appendix 3 Performance indicators

Performance indicators for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (c) 11 (d)	Assessment of change in flow duration characteristics at identified reference points.	River Flow Objectives (RFOs) 1, 2 and 6 RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a) 11 (c) 11 (d)	Assessment of change in flow duration characteristics at identified reference points.	RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities access.	11 (b)	Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction).	Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

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Performance indicators for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources			
Performance indicator	Related objective	As measured by	Commentary
(d) Change in ecological condition of these water sources and dependent ecosystems.	11 (a) 11 (c) 11 (d) 11 (f)	## Periodic assessment of identified indicators for ecological condition, including appropriate biological monitoring.	## Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. ## There are many other factors that contribute to ecological objectives. ## The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes). ## While assessment should be based largely on hydrologic parameters, it should also include biological parameters.
(e) Extent to which basic landholder rights requirements have been met.	11 (b)	Assessment of cease to pump levels in relation to basic rights requirements.	## Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (b) 11 (e)	## Number of days access provided. ## Percentage change in number and volume of farm storages. ## Change in unit price of water transferred. ## CPI adjusted dollars should be used to understand real changes.	## Note that there are many factors affecting economic status of a region, for example commodity prices. ## Measurement of the number of farm storages will attempt to identify the impact of the plan provisions.

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Performance indicators for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources			
Performance indicator	Related objective	As measured by	Commentary
(g) Extent to which native title rights requirements have been met.	11 (b)	## Assessment of cease to pump levels in relation to basic rights requirements.	## The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (a) 11 (b) 11 (c) 11 (d) 11 (f)	## Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.	## The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water quality to support the environmental values of these water sources.	11 (f)	## Change in the baseline figures of identified water quality variables.	## Note that many factors may affect water quality which are not related directly to flow management.

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Appendix 4 River flow objectives and water quality objectives

River Flow objective		Process of influencing water quality
1	Protect natural water levels in pools of creeks and rivers and wetlands during periods of no flow	≠ Decreases the rate at which water quality detrimentally changes in pools that represent refuge habitat. ≠ Prevents further concentration of pollutants.
2	Protect natural low flows	≠ Improves pool connectivity and minimises stagnation and stratification of pools, preventing further concentration of pollutants during low flows. ≠ Suppresses conditions favourable to blue-green algal blooms. ≠ Minimises the impact of groundwater recharge where groundwater is saline.
3	Protect or restore a proportion of moderate flows (freshes) and high flows	≠ Freshes transport sediment, nutrients and organic carbon downstream, increase dissolved oxygen, and break up stratification of pools. ≠ Freshes wet banks and benches of rivers to maintain habitat, stimulating ecological processes that regulate water quality.
4	Maintain or restore natural inundation and distribution of floodwaters supporting natural wetland and floodplain ecosystems	≠ Regular floods add floodplain inputs to stimulate natural processes that regulate water quality. ≠ High flows support healthy riparian zones that act as buffers and stabilise banks.
6	Maintain or mimic natural flow variability in all rivers	≠ Natural variable flows disadvantage exotic species such as carp, which cause water quality problems. ≠ Variable flows minimise stratification of pools and conditions favourable to blue green algae. ≠ Natural variable flows help maintain a dynamic ecosystem and diverse biological community, in turn stimulating ecological processes that regulate water quality.
7	Maintain rates of rise and fall of river heights within natural bounds	≠ Natural rates of rise and fall minimise bank slumping which increase turbidity.
9	Minimise the impact of in-river structures	≠ Flow management and structure operation can prevent or address weir pool stratification and accumulation of pollutants. ≠ Minimising weir pool stratification can reduce or eliminate conditions favourable to blue green algae. ≠ Structure operation should attempt to minimise low level releases which may be cold or high in sediment, nutrients and/or toxicants.
11	Ensure river flow management provides for contingencies	≠ In some circumstances, can provide flushing flows.

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Appendix 5 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

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8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:

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- (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
 - (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.

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- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.

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- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.

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- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:

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- (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.

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- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

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Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Gwydir Water Management Area, known as the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

Note. The water management area is shown on a map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones shown on the map in Schedule 2:
 - (a) Rocky Creek management zone,
 - (b) Cobbadah management zone,
 - (c) Upper Horton management zone, and
 - (d) Lower Horton management zone.

Note. Specific conditions apply to access licence dealings within these management zones.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.

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- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is to achieve a sustainable, healthy river system that provides water for meeting community, environmental, Aboriginal, agricultural and industrial needs.

11 Objectives

The objectives of this Plan are to:

- (a) implement the relevant River Flow Objectives as stated in Appendix 4, to protect, maintain and enhance the environmental values of this water source,
- (b) manage this water source to ensure equitable sharing of water between all uses,
- (c) protect this water source by ensuring adverse impacts of extraction are minimised,
- (d) improve the water quality of this water source,
Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.
- (e) provide opportunities for ecologically sustainable market-based trading of surface water in this water source,
- (f) manage this water source to preserve and enhance basic landholder rights to water,
- (g) ensure extraction from this water source is managed within the *Murray-Darling Basin Agreement, Schedule F - Cap on Diversions*,
- (h) manage this water source to preserve and enhance cultural and heritage values,
- (i) recognise and protect traditional values of water to Aboriginal people, and
- (j) recognise the importance of the management of this water source for downstream river health.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,

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- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities access,
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

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Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Gwydir Unregulated Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

- (1) For the Rocky Creek and Cobbadah management zones this Plan establishes the following flow classes:
 - (a) very low flow class at or less than 2 megalitre per day (hereafter **ML/day**),
Note. 2 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river in these management zones.
 - (b) A class flows greater than 2 ML/day and at or less than 3 ML/day,
 - (c) B class flows greater than 3 ML/day and at or less than 11 ML/day, and
 - (d) C class flows greater than 11 ML/day.
- (2) For the Upper Horton management zone this Plan establishes the following flow classes:
 - (a) very low flow class at or less than 2 ML/day,
Note. 2 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river in the Upper Horton management zone.
 - (b) A class flows greater than 2 ML/day and at or less than 6 ML/day,
 - (c) B class flows greater than 6 ML/day and at or less than 21 ML/day, and
 - (d) C class flows greater than 21 ML/day.
- (3) For the Lower Horton management zone this Plan establishes the following flow classes:

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- (a) very low flow class at or less than 4 ML/day,

Note. 4 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river in the Lower Horton management zone.

- (b) A class flows greater than 4 ML/day and at or less than 18 ML/day,

- (c) B class flows greater than 18 ML/day and at or less than 67 ML/day, and

- (d) C class flows greater than 67 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of each zone, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 5.1 ML/day.
Note. 5.1 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights.
 - (b) In A class flows, the flow occurring in this water source minus 16.1 ML/day.
Note. 16.1 ML/day is amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.
 - (c) In B class flows, the flow occurring in this water source minus 25.1 ML/day.
Note. 25.1 ML/day is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.
 - (d) In C class flows, the flow occurring in this water source minus 53.1 ML/day.
Note. 53.1 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 5.1 ML/day.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.
 - (b) In each of A class, B class, and C class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 5.1 ML/day in this flow class the access to water for access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
 - (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

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Note. These rules protect the water for the environment by limiting both the water extracted in the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and a contribution to improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of basic landholder rights from this water source to protect the environment, for reasons of public health, or to preserve existing basic landholder rights.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 5.1 ML/day, distributed as follows:
 - (a) 0.7 ML/day for the Rocky Creek management zone,
 - (b) 1.1 ML/day for the Cobbadah management zone,
 - (c) 1.7 ML/day for the Upper Horton management zone, and
 - (d) 1.6 ML/day for the Lower Horton management zone.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source, or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 5,509 megalitres per year (hereafter **ML/yr**), distributed as follows:
 - (a) 284 ML/yr in the Rocky Creek management zone,
 - (b) 332 ML/yr in the Cobbadah management zone,
 - (c) 1,309 ML/yr in the Upper Horton management zone, and
 - (d) 3,584 ML/yr in the Lower Horton management zone.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

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Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,

Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act, or
 - (d) unregulated river (Aboriginal cultural) access licences where the share components does not exceed 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water from this water source will be undertaken in the context of the Gwydir Unregulated Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 42 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

Note. Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note. Water allocations may also be re-credited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous 2 available water determinations.

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- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 11 ML/day for A class,
- (b) 20 ML/day for B class, and
- (c) 48 ML/day for C class.

Note. These flows represent 61% of the top of A class flows, 30% of the top of B class flows and in C class flows 30% of the 30th percentile flows in this water source.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Local water utility access licences:
 - (i) 0 ML/day of A class,
 - (ii) 0 ML/day of B class, and
 - (iii) 0 ML/day of C class.
- (b) Domestic and stock access licences:
 - (i) 0.15 ML/day of A class,
 - (ii) 0.15 ML/day of B class, and
 - (iii) 0.15 ML/day of C class.
- (c) Unregulated river access licences:
 - (i) 10.85 ML/day of A class,
 - (ii) 19.85 ML/day of B class, and
 - (iii) 47.85 ML/day of C class.

47 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) Any unassigned TDEL may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

50 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 49 any unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first any unassigned TDEL then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new domestic and stock, local water utility, or unregulated river (Aboriginal cultural) access licences, or

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- (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act, then the TDEL for unregulated river access licences in clause 46 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at 5 yearly intervals.
- (6) If water that, pursuant to an access licence,:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

- (1) Notwithstanding the forgoing provisions of this Division, this Plan allows for group management of access licences with respect to the IDELs.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
 - (a) all access licences with IDELs shall be made part of a group maintained by the Minister, and
 - (b) access licences with IDELs will be assessed as a whole against their combined IDELs.
- (3) At any time when subclause (2) does not apply:
 - (a) access licence holders may make a request to form a group for their access licences,
 - (b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDEL, and
 - (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.
- (4) Groups will be managed according to the following rules:
 - (a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
 - (b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,

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- (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (e) an access licence may not be in more than one group, and
- (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 5.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if:
- (a) any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59,
Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.
 - (b) the dealing would result in the access licence extraction component nominating a work in a different management zone, or
 - (c) the dealing would result in an increase in total access licence share components nominating a work in the Upper Horton management zone above that the existed at the commencement of this Plan.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 49.

56 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

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Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source under this dealing only if the access licence dealing rules in the other water source permit such a dealing, and:
 - (i) the access licence cancelled is within this Unit, or
 - (ii) the access licence cancelled is within the Gwydir Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from a regulated river access licence to unregulated river access licence.

Note. This will occur directly following a dealing under section 71E of the Act that changes the water source to which the access licence applies.

- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

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58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source and access licences in another water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

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Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,

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- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

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67 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan.

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Part 13 Granting and amending water supply works approvals

68 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

69 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

70 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

71 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee, where one exists.

Note. Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

Part 15 Amendment of this Plan

72 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

73 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of A class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow levels being:
 - (a) less than the levels equivalent to the 95th percentile of days with flow, unless the Minister is satisfied that there is sufficient justification for adopting a lower level, and
 - (b) notwithstanding subclause (a), the flow classes established in clause 17 shall not be varied by more than 100%.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the following objectives of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) are met:
 - (a) Objective 1 - to protect water levels in natural river pools and wetlands during periods of no flow, and
 - (b) Objective 2 - to protect natural low flows.
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
 - (b) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the objectives in subclause 4 are met,
 - (iv) the flow level recommended to meet the objectives, and
 - (v) the socio-economic impacts of recommended changes to the flow level.

74 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 73 (5) (b) before varying this Plan in accordance with

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clause 73 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.

- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

75 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELs and IDELs.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

Cap is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

conversion factor refers to the adjustment factor that is to be applied to an access licence share component when it is cancelled in one water source, and reissued in a different water source and visa versa, or when the access licence is converted from one category to another. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

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individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also ***farm dam*** and ***runoff harvesting dam***.

management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

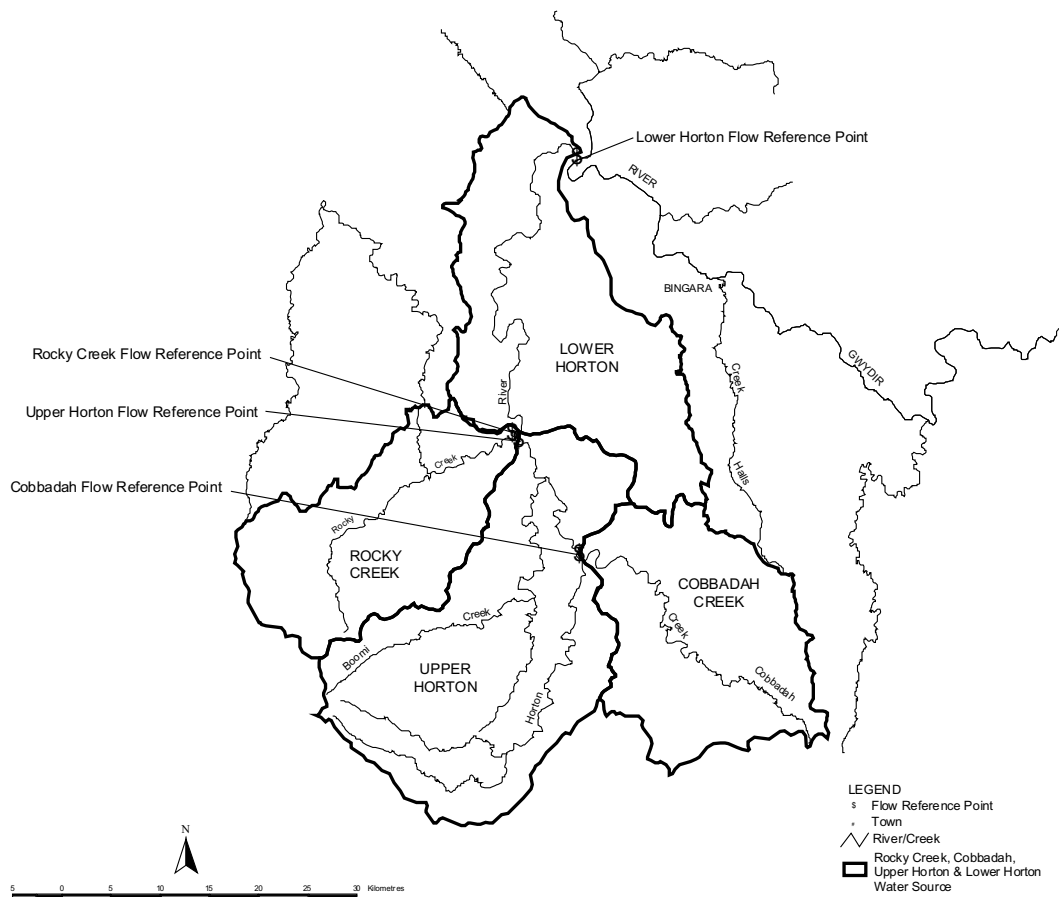
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also ***farm dam*** and ***in-river dam***.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source



Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

Schedule 3 Rivers in the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source

This water source includes, without limitation:

Rocky Creek management zone

Rocky Creek
Oakey Creek
Hell Hole Creek
Paleroo Creek
Back Creek
Pine Tree Creek
Pound Creek
Caroda Creek

Cobbadah management zone

Cobbadah Creek
Spring Creek
Sheep Station Creek
Dry Gully
Oak Creek
Little Plain Creek
Tin Hut Creek
Andersons Creek
Chain of Ponds Creek
Stringybark Creek

Upper Horton management zone

Horton River
Ramyard Creek
Second Water Creek
Noogera Creek
Murro Mian Creek
Boomi Creek
Duckholes Creek
Tea Tree Gully
Boundary Creek

Lower Horton management zone

Horton River
Pallal Creek
Five Mile Creek
Dry Creek
Capels Creek
Oak Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target, there is a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1b Extractions in Murray-Darling Basin's unregulated rivers limited to the MDBMC Cap level	FULL	## Part 9 of this Plan sets out the basis for the extraction limit for Gwydir Unregulated Extraction Management Unit.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	## Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	## Protects very low flows below the 95 th percentile in each zone - has been assessed in the field as adequate to meet environmental needs. ## This Plan has put in place daily extraction limits to protect 70% of flows in B and C classes and improves low flows (A class). ## At least 3 listed threatened fish species are likely to occur in Horton and tributaries (silver perch, purple spotted gudgeon, olive perchlet). No recovery plans are in place, therefore there are no specific provisions in this Plan. The flow protection should maintain/improve conditions for these species.
Target 4a Wherever the frequency of "end of system" daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency	FULL	## A class – 40% of flow protected but this is more than 10% improvement on current. ## B class – 70% of the flow is protected. ## C class – 70% of the flow is protected.
Target 4b Frequency of "end of	FULL	€ Cease to pump (CTP) at 4 ML/day at

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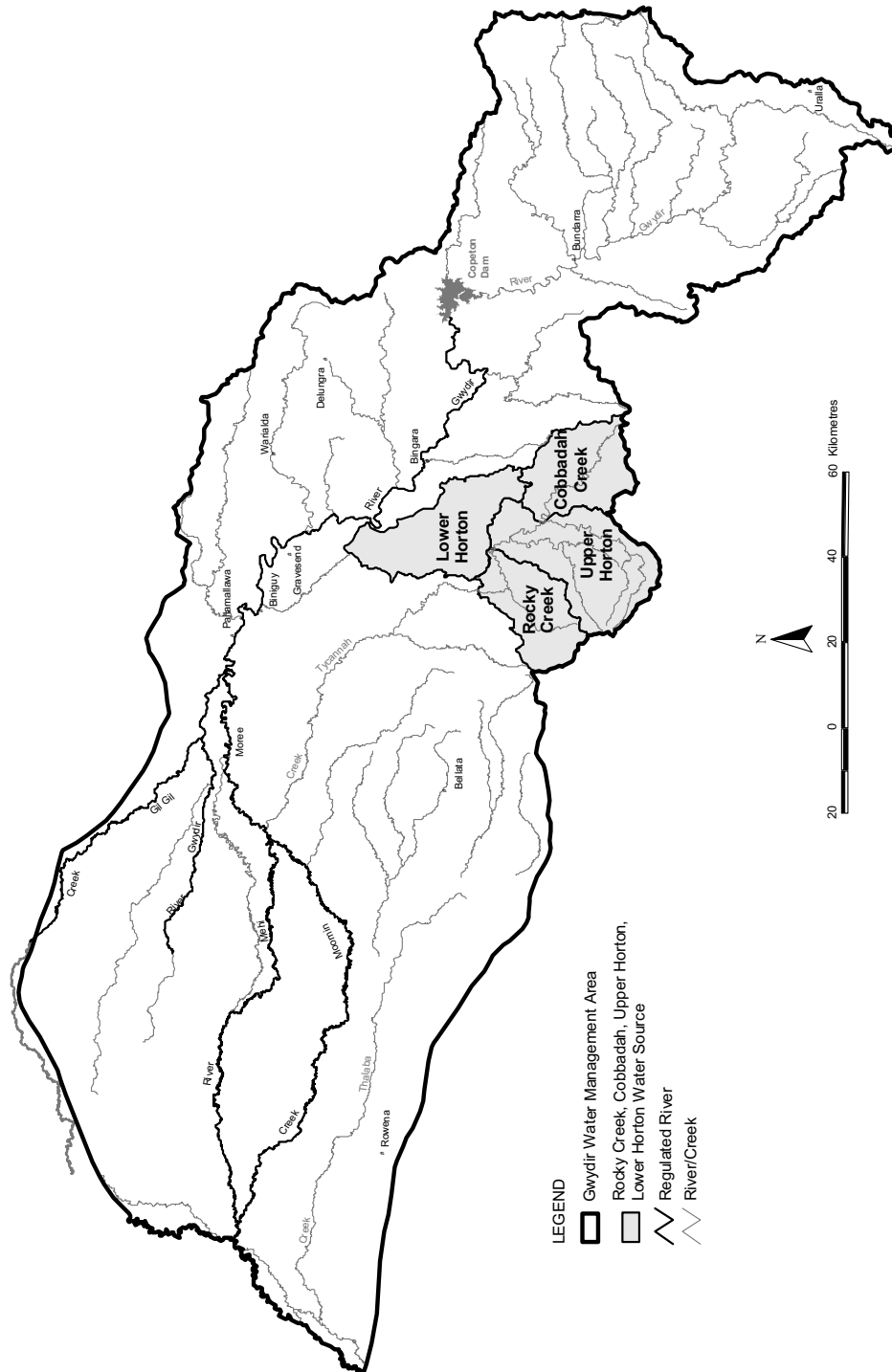
system" daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile		end of this water source, which is the 95th percentile of all days with flow, are protected from licensed extraction. ##CTPs of 2ML/day are specified for each of 3 upstream zones, being higher than 95th percentile flow in these systems, and consistent with achievement of the 4ML/day end of system flow. ##The environmental appropriateness of this level was verified by field inspection.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	##This Plan recognises the annual volumetric entitlements and establishes TDELs for distribution to individual licensees ##It also enables trading of access licences or IDELs
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	##The Government has established alternative mechanisms to address this target. ##This Plan also provides reasonable market opportunities. ##This Plan does not establish unallocated water, but does allow applications for Aboriginal cultural purposes.
Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers	FULL	##This Plan establishes total daily extraction limits across the water source.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	##Domestic and stock basic rights are estimated at 5.1 ML/day. ##The upstream zone CTPs (at 2 ML/day) should ensure that the basic right requirements are met during very low flow periods.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	##1 Aboriginal community representative was involved in development of this Plan.

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Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	PARTIAL	## The general importance of this water source to the Aboriginal people has been recognised however no specific cultural or traditional sites or requirements have been identified. ## This Plan does provide a reasonable level of environmental protection/improvement which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	## Part 11 of this Plan provides for trading of annual and daily entitlements.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	## Part 11 of this Plan enables the Minister to establish conversion factors where necessary.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	## Part 11 of this Plan enables the Minister to establish conversion factors where necessary.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	## There is no unallocated water at the commencement of this Plan. If unassigned TDELs arise, rules for its distribution are established.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	## 4 water trading zones are established, and the rules for trading between them set out in Part 11 of this Plan.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	PARTIAL	## This Plan includes a water quality objective, and assumes that the environmental health water rules will contribute to an improvement in water quality.

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Appendix 1 Gwydir Water Management Area



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Appendix 2 Location of maps for public inspection

The maps in relation to this Plan may be inspected at:

District Office
Department of Land and Water Conservation
66-68 Frome Street
MOREE NSW 2400

District Office
Department of Land and Water Conservation
47 Hope Street
WARRIALDA NSW 2402

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Appendix 3 Performance indicators

Performance indicators for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (c)	## Assessment of change in flow duration characteristics at identified reference points.	## River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. ## Plan will contribute to a decrease in the frequency and duration of low flows. ## This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a)	## Assessment of change in flow duration characteristics at identified reference points.	## RFO 3. ## Plan will maintain or increase the frequency and duration of moderate to high flows. ## This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities access.	13 (b)	## Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction).	## Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.
(d) Change in	11 (a)	## Periodic	## Water sharing plans are limited to

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Performance indicators for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
ecological condition of this water source and dependent ecosystems.	11 (d)	assessment of identified indicators for ecological condition.	providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. ##There are many other factors that contribute to ecological objectives. ##The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e)Extent to which basic landholder rights requirements have been met.	11 (f)	Assessment of cease to pump levels in relation to basic rights requirements.	##Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (b) 11 (e) 11 (g)	##Number of days access provided. ##Percentage change in number and volume of farm dams. ##Change in unit price of water transferred.	##There are many factors affecting economic status of a region, for example commodity prices. ##Measurement of the number of farm dams will attempt to identify the impact of the plan provisions. ##Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.
(g) Extent to which native title rights requirements have been met.	11 (f)	##Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.	##The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.

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Performance indicators for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (h) 11 (i)	## Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.	## The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (l)	## Change in the baseline figures of identified water quality variables.	## Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 River flow objectives and water quality objectives

River low objective		Process of influencing water quality
1	Protect natural water levels in pools of creeks and rivers and wetlands during periods of no flow	⌘ Decreases the rate at which water quality detrimentally changes in pools that represent refuge habitat. ⌘ Prevents further concentration of pollutants.
2	Protect natural low flows	⌘ Improves pool connectivity and minimises stagnation and stratification of pools, preventing further concentration of pollutants during low flows. ⌘ Suppresses conditions favourable to blue-green algal blooms. ⌘ Minimises the impact of groundwater recharge where groundwater is saline.
3	Protect or restore a proportion of moderate flows (freshes) and high flows	⌘ Freshes transport sediment, nutrients and organic carbon downstream, increase dissolved oxygen, and break up stratification of pools. ⌘ Freshes wet banks and benches of rivers to maintain habitat, stimulating ecological processes that regulate water quality.
4	Maintain or restore natural inundation and distribution of floodwaters supporting natural wetland and floodplain ecosystems	⌘ Regular floods add floodplain inputs to stimulate natural processes that regulate water quality. ⌘ High flows support healthy riparian zones that act as buffers and stabilise banks.
6	Maintain or mimic natural flow variability in all rivers	⌘ Natural variable flows disadvantage exotic species such as carp, which cause water quality problems. ⌘ Variable flows minimise stratification of pools and conditions favourable to blue green algae. ⌘ Natural variable flows help maintain a dynamic ecosystem and diverse biological community, in turn stimulating ecological processes that regulate water quality.
7	Maintain rates of rise and fall of river heights within natural bounds	⌘ Natural rates of rise and fall minimise bank slumping which increase turbidity.
9	Minimise the impact of in-river structures	⌘ Flow management and structure operation can prevent or address weir pool stratification and accumulation of pollutants. ⌘ Minimising weir pool stratification can reduce or eliminate conditions favourable to blue green algae. ⌘ Structure operation should attempt to minimise low level releases which may be cold or high in sediment, nutrients and/or toxicants.
11	Ensure river flow management provides for contingencies	⌘ In some circumstances, can provide flushing flows.

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NSW water quality objectives
Aquatic ecosystems
Visual amenity
Secondary contact recreation
Primary contact recreation
Livestock water supply
Irrigation water supply
Homestead water supply
Drinking water at point of supply-Disinfection only
Drinking water at point of supply-Clarification and disinfection
Drinking water at point of supply-Groundwater
Aquatic foods (cooked)

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Appendix 5 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
 - (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction

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components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Upper Billabong Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Upper Billabong Water Source 2003

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Water Sharing Plan for the Upper Billabong Water Source 2003

Water Sharing Plan for the Upper Billabong Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Upper Billabong Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Murray Water Management Area known as the Upper Billabong Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

Note. The Murray Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones shown on the map in Schedule 2:
 - (a) Billabong Creek Management Zone, which encompasses the Forest Creek subcatchment and the subcatchment of the Billabong Creek downstream of the Little Billabong Bridge, and
 - (b) Billabong Headwater Management Zone, which encompasses all subcatchment areas within this water source except those identified in subclause (a).

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.

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- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude waters in any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Water Sharing Plan for the Upper Billabong Water Source 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is for healthy water environments for the Upper Billabong Water Source.

11 Objectives

The objectives of this Plan are to:

- (a) protect natural low flows (flows from the very low and A classes),
- (b) protect important rises in river levels,
- (c) protect a proportion of moderate flows (B class flows),
- (d) maintain wetland and floodplain inundation,
- (e) protect the natural wetting and drying cycles of ephemeral waterways,
- (f) provide water to meet existing and future licensed domestic and stock requirements, conditional on climatic variability, the provision of water for environmental purposes and the provision of water to meet basic landholder rights requirements,
- (g) provide for the practical sharing of water for other licensed consumptive uses, conditional on climatic variability, the provision of water for environmental purposes, the provision of water to meet basic landholder rights requirements and the provision of water to meet existing and future licensed domestic and stock requirements,
- (h) provide a share of water to preserve identified values downstream of this water source, conditional on climatic variability,
- (i) protect wetland areas with traditional native aquatic plants used by Aboriginal people for food, medicines and habitat,
- (j) respect and protect Wiradjuri heritage sites and culture through the management of water extraction from this water source,
- (k) recognise and protect any other traditional values of water to Aboriginal people, and
- (l) contribute to the achievement of water quality to support the environmental values of this water source.

Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

Water Sharing Plan for the Upper Billabong Water Source 2003

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in ecological condition of this water source and dependent ecosystems,
- (d) extent to which basic landholder rights requirements have been met,
- (e) change in economic benefits derived from water extraction and use,
- (f) extent to which native title rights requirements have been met,
- (g) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (h) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Unregulated Billabong Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) for the Billabong Creek Management Zone very low flow class at or less than 1.84 megalitres per day (hereafter **ML/day**),

Note. The 1.84 ML/day in subclause (a) corresponds to the estimated 80th percentile of flows in the critical month, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
- (b) for the Billabong Headwater Management Zone very low flow class at or less than 0.5 ML/day, measured at a pipe located directly down river of the site of extraction,

Note. The 0.5 ML/day in subclause (b) is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
- (c) for the Billabong Creek Management Zone A class flows greater than 1.84 ML/day and at or less than 4.1 ML/day,
- (d) for the Billabong Headwater Management Zone A class flows greater than 0.5 ML/day measured at a pipe located directly down river of the site of extraction, and at or less than 4.1 ML/day at the flow reference point,
- (e) for both management zones B class flows greater than 4.1 ML/day and at or less than 7.2 ML/day, and
- (f) for both management zones C class flows greater than 7.2 ML/day.

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Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, unless otherwise stated, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

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Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 0.55 ML/day.
Note. 0.55 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights.
 - (b) In A class flows, the flow occurring in this water source minus 2.81 ML/day.
Note. 2.81 ML/day is amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.
 - (c) In B class flows, the flow occurring in this water source minus 3.85 ML/day.
Note. 3.85 ML/day is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.
 - (d) In C class flows, the flow occurring in this water source minus 9.15 ML/day.
Note. 9.15 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.55 ML/day.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment for reasons of public health, or to preserve basic landholder rights.
 - (b) In each of A class, B class and C class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.55 ML/day in this flow class the access to water for access licences will be reduced in accordance with clause 50 to maintain the environmental water in each flow class.
 - (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

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Note. These rules protect the water for the environment by limiting both the water extracted over the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and a contribution to improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.55 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source and/or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 337 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved work.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences,
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act, or
 - (c) the assignment of access licence share components into this water source to a total maximum of 2,145 ML/yr, following cancellation of access licence share components in other water sources, consistent with Part 11 of this Plan.

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Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,

Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences, or
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Unregulated Billabong Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in clause 42 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for

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the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

Note. Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,

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- (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous 2 available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and

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- (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:
 - (a) 0 ML/day for the very low flow class,
 - (b) 2.26 ML/day for A class,
 - (c) 3.3 ML/day for B class, and
 - (d) 8.6 ML/day for C class.

Note. These flows represent 55% of the top of A class flows, 46% of the top of B class flows and in C class flows 30% of the 30th percentile flows of annual flows.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Domestic and stock access licences:
 - (i) 0.02 ML/day of A class,
 - (ii) 0.02 ML/day of B class, and
 - (iii) 0.02 ML/day of C class.
- (b) Local water utility access licences:
 - (i) 0 ML/day of A class,
 - (ii) 0 ML/day of B class, and
 - (iii) 0 ML/day of C class.
- (c) Unregulated river access licences:
 - (i) 2.24 ML/day of A class,
 - (ii) 3.28 ML/day of B class, and
 - (iii) 5 ML/day of C class.

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47 Unassigned TDEL

At the commencement of this Plan, unassigned TDEL in each flow class is as follows:

- (a) 0 ML/day of A class,
- (b) 0 ML/day of B class, and
- (c) 3.58 ML/day of C class.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
 - (a) where they are granted as part of a new access licence,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) on application of the holder of an existing access licence with share components in this water source, provided A class daily individual extraction limits are surrendered and C class IDELs are granted on a 1:1.5 basis.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

50 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and

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- (b) the IDELs of each unregulated river access licence shall then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new access licences for local water utilities and domestic and stock access, or
 - (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,then the TDEL for unregulated river access licences in clause 46 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If A class IDELs are surrendered in accordance with clause 49 (1) (c), the A class TDEL in clause 45 (1) (b), and the TDEL for unregulated river access licences in clause 46 (c) (i), will be diminished by an equivalent amount.
- (7) If A class IDELs are surrendered in accordance with clause 49 (1) (c), the unassigned TDEL in clause 47 (c) will be reduced by an amount equivalent to 1.5 times the amount of the IDEL surrendered, and the TDEL in 46 (c) (iii) will be increased by an equivalent amount.
- (8) If water that, pursuant to an access licence,:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 48,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,

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- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence which is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and
- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59.

Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 49.

56 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.

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- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source under this dealing only if the access licence dealing rules in the other water source permit such a dealing, and:
 - (a) the access licence cancelled is within this Unit, or
 - (b) the access licence cancelled is within the Murrumbidgee Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The total volume of access licence share components in this water source may not exceed 2,145 ML/yr as a result of a dealing under this clause.
- (7) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from a regulated river (general security) access licence or a regulated river (high security) access licence to an unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

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59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source and an access licence in another water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

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Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence,
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan, and

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- (g) a flow measurement pipe must be installed, to the specifications of the Minister, down river of a water supply work in the Billabong Headwater Management Zone that is nominated by an access licence.

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Part 14 Monitoring and reporting

70 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee, where one exists.

Note. Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

71 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

72 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of A class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow levels being less than the levels equivalent to the 95th percentile flow of all days, or being greater than the 80th percentile flow of all days.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the following objectives of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) are met:
 - (a) Objective 1 - to protect water levels in natural river pools and wetlands during periods of no flow, and
 - (b) Objective 2 - to protect natural low flows.
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
 - (b) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the objectives in subclause (4) are met,
 - (iv) the flow levels recommended to meet the objectives, and
 - (v) the socio-economic impacts of recommended changes to the flow levels.

73 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 72 (5) (b) before varying this Plan in accordance with clause 72 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:

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- (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

74 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELs and IDELs.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

Cap is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

conversion factor refers to the adjustment factor that is to be applied to an access licence share component when it is cancelled in one water source, and reissued in a different water source and visa versa, or when the access licence is converted from one category to another. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

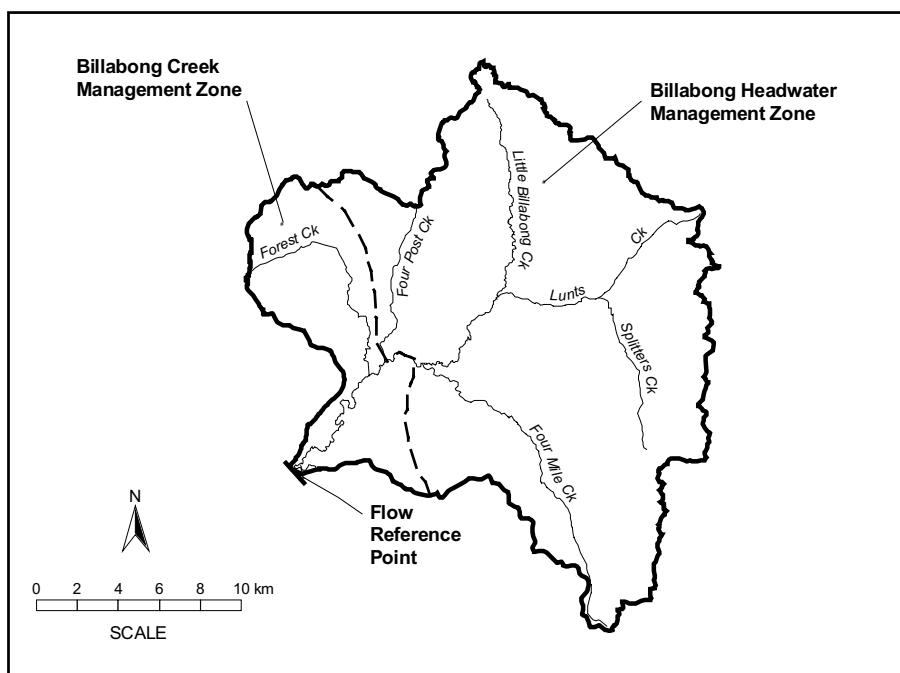
management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Upper Billabong Water Source

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Schedule 3 Rivers in the Upper Billabong Water Source

This water source includes, without limitation:

Billabong Creek

Forest Creek

Lunts Creek

Splitters Creek

Little Billabong Creek

Four Post Creek

Vokins Creek

Four Mile Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target, there is a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to the target

Relevant Target	Level of contribution	Comments
Target 1b Extractions in Murray-Darling Basin's unregulated rivers limited to the Murray Darling Basin Ministerial Council (MDBMC) Cap level	FULL	## Part 9 of this Plan sets out the basis for the extraction limit for this water source. ## The extraction limit is clearly defined by an estimate of usage under MDBC Cap (which is the sum of the average use of the 6 years surveyed usage 1993-1999).
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	## Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	## Part 10 of this Plan puts in place total daily extraction limits to protect/restore 45% to 70% of flows. ## While substantially improving most flows, this Plan allows for increased use of high flows. ## 2 threatened fish species are acknowledged (Southern Pigmy Perch (listed) and Golden Perch (potential). There are no recovery plans in place, and therefore no specific provisions in this Plan. ## The Upper Billabong is part of an area listed as the "Lower Murray River Catchment Endangered Ecological Community" under the Fisheries Management Act, with reduced flows as a key threatening process.
Target 4a Wherever the		€ A class TDEL protects 45% of low

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frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency	FULL	flow, which is more than a 10% improvement. ## B class TDEL protects 54% of moderate flow, which is more than a 10% improvement. ## C class TDEL protects 70% of high flow.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile	HIGH	## Cease to pump (CTP) level on the perennial rivers of 1.84 ML/day protects flows below the 80th percentile in critical months. ## Local CTP on ephemeral rivers of 0.5 ML/day. ## This Plan provides for field verification of CTP as soon as possible, and if necessary an increase in CTP between the 95th percentile and the 80th percentile for all days.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	## This Plan recognises the access licence share components and establishes TDELs for distribution to individual licences. ## This Plan provides principles for the trading of share components and IDELS.
Target 6b For surface water, a pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	## Total licensed share component for the Unregulated Billabong Extraction Management Unit should not exceed 200% of the extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy.	PARTIAL	## The Government has established alternative mechanisms to address this target. ## This Plan does provide reasonable market opportunity.
Target 8 Daily extraction	FULL	## This Plan establishes TDELs across the

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components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers		whole water source.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	## Cease to pump level will protect flows for domestic and stock rights.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	## An Aboriginal community representative has been involved in the development of this Plan.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	PARTIAL	## This Plan recognises the cultural significance of the Upper Billabong environment to the Wiradjuri people. ## This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance. ## This Plan does provide a level of environmental protection /improvement which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	## This Plan clarifies access licence share components and establishes daily extraction limits, and provides principles for trading of these.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	## Part 11 of this Plan enables the Minister to establish conversion factors where necessary.

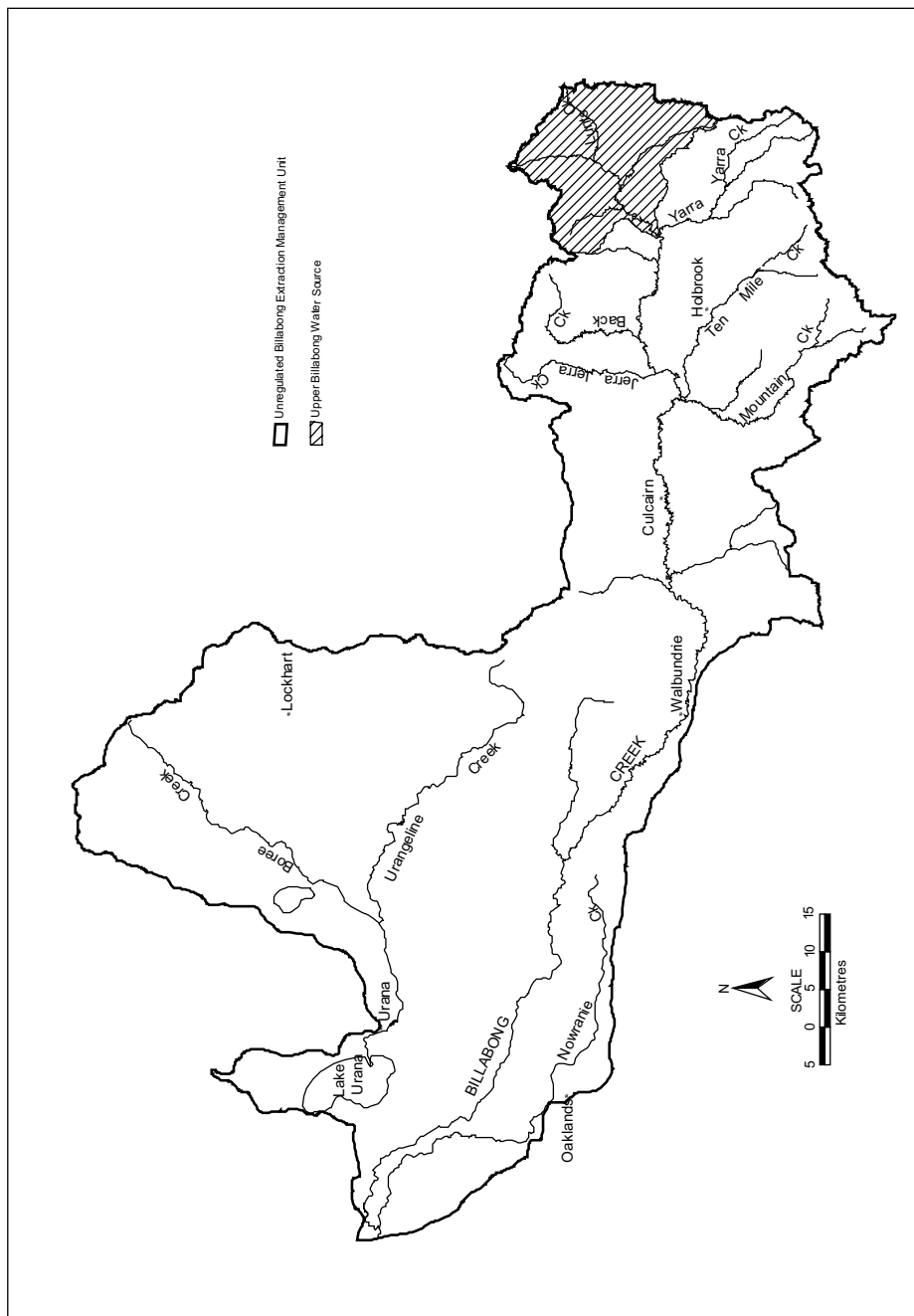
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Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	## Part 11 of this Plan enables the Minister to establish conversion factors where necessary.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	## This Plan establishes rules for granting unassigned TDELs.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	## This Plan establishes management zones and precludes the trading of IDELs between these.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	## This Plan includes a generalised water quality objective. ## This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

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Schedule 5 Unregulated Billabong Extraction Management Unit

This Unit excludes any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.



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Appendix 2 Location of maps for public inspection

The maps in relation to this Plan may be inspected at:

Regional Office
Department of Land and Water Conservation
512 Dean Street
ALBURY NSW 2640

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Appendix 3 Performance indicators

Performance indicators for the Upper Billabong Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (b) 11 (c)	Assessment of change in flow duration characteristics at identified reference points.	River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (b) 11 (c) 11 (d) 11 (e)	Assessment of change in flow duration characteristics at identified reference points.	RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in ecological condition of this water source and dependent ecosystems.		Periodic assessment of identified indicators for ecological condition.	Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. There are many other factors that contribute to ecological objectives. The focus of this performance indicator will be the effect of flow strategies.
(d) Extent to	11 (f)	Assessment of	Basic landholder rights usage figures

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Performance indicators for the Upper Billabong Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
which basic landholder rights requirements have been met.		cease to pump levels in relation to basic rights requirements.	in water sharing plans are estimated (not actual use).
(e) Change in economic benefits derived from water extraction and use.	11 (f) 11 (g)	## Number of days access provided. ## Percentage change in number and volume of farm dams. ## Change in unit price of water transferred.	## There are many factors affecting economic status of a region, for example commodity prices. ## Measurement of the number of farm dams will attempt to indicate the adjustment to the rules and the ongoing access to water. ## Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.
(f) Extent to which native title rights requirements have been met.	11 (k)	## Assessment of cease to pump levels in relation to basic rights requirements.	## The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(g) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (I), 11 (j), 11 (k)	## Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.	## The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Contribution to the	11 (l)	## Change in the baseline figures	## Many factors may affect water quality that are not related directly to

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Performance indicators for the Upper Billabong Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
achievement of water quality to support the environmental values of this water source.		of identified water quality variables.	flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings**11. Transfer of access licences**

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
 - (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction

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components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and

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- (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.

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- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
- (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
- (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or

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- (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:

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- (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Upper Brunswick River Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Upper Brunswick River Water Source 2003

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Water Sharing Plan for the Upper Brunswick River Water Source 2003

Water Sharing Plan for the Upper Brunswick River Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Upper Brunswick River Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

The area in respect of which this Plan is made is that area of land within the Northern Rivers Water Management Area known as the Upper Brunswick River Water Source (hereafter **this water source**) as shown on the map in Schedule 2.

Note. The Northern Rivers Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.

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- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is that the environment of the Upper Brunswick River Water Source receives the necessary water to sustain healthy functioning ecosystems and to provide flows for downstream sub-catchments, and that an informed, water efficient community is provided with water to meet its needs.

11 Objectives

The objectives of this Plan are to:

- (a) provide opportunities for access to water in this water source for domestic and stock purposes, whilst encouraging and supporting efficient, innovative water use, alternative water sources and drought management strategies,
- (b) ensure Aboriginal cultural needs are considered in flow management decisions for this water source, to enable maintenance and protection of values and places of importance under traditional laws, customs and practices,
- (c) protect the variability of natural flow conditions thereby maintaining and improving the overall health of this water source and related ecosystems, including threatened species,
- (d) preserve and maintain the functions of natural low flows in this water source, particularly during dry periods,
- (e) provide opportunities for access to water for irrigation and other commercial purposes in this water source,
- (f) enhance the downstream health of the lower Brunswick River by ensuring adequate flow contributions from this water source to the estuary, and
- (g) protect and improve water quality in this water source through the management of flows.

Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,

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- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities access,
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Water Sharing Plan for the Upper Brunswick River Water Source 2003

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Brunswick River Catchment Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) very low flow class at or less than 2 megalitres/day (hereafter **ML/day**),

Note. The 2 ML/day corresponds to the estimated 80th percentile daily flow in the critical month, October, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
- (b) B class flows greater than 2 ML/day and at or less than 9 ML/day, and
- (c) C class flows greater than 9 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

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Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

(1) Environmental health water is identified and established as follows:

(a) In very low flows, the flow occurring in this water source minus 0.006 ML/day.

Note. 0.006 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights.

(b) In B class flows, the flow occurring in this water source minus 4.056 ML/day.

Note. 4.056 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights.

(c) In C class flows, the flow occurring in this water source minus 5.010 ML/day.

Note. 5.010 ML/day is the amount of water estimated at the commencement of the Plan for C class total daily extraction limit and basic landholder rights.

(2) Environmental health water is maintained as follows:

(a) In very low flows:

- (i) the holders of access licences are not permitted any access, and
- (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.006 ML/day.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

(b) In each of B class and C class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 46,
- (ii) persons exercising domestic and stock and native title rights may take water, and
- (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.006 ML/day in this flow class the access to water for access licences will be reduced in accordance with clause 51 to maintain the environmental water in this flow class.

(c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 36 and 38, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

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Note. These rules protect the water for the environment by limiting both the water extracted in the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide benefits, including a non-extractive water source for traditional Aboriginal spiritual, social, customary and cultural use, and contributes to improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.006 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements of holders of native title rights are a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 526 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender cancellation or non-renewal of access licences in this water source,
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act, or
 - (c) the granting of an application to an existing access licence holder under the provisions of clause 32 (3) (c) up to a maximum total additional share components in this water source of 250 ML/yr.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,

Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) an unregulated river access licence applied for by an existing access licence holder for additional access licence share components in exchange for surrender of B class individual daily extraction limit as follows:
 - (i) the access licence share component may increase by 100% if all B class IDELs are surrendered,
 - (ii) the total daily extraction limit in C class will not change,
 - (iii) to be eligible for additional share component under subclause (3) (c), the IDEL surrendered must be the full IDEL initially assigned to the access licence, as amended by clause 51,
 - (iv) the share component increased in accordance with subclauses (3) (c) (i) cannot exceed the access licence share component to which the IDEL was initially assigned,
 - (v) the total daily extraction limit in clause 46 (1) (a) and clause 47 (c) (i) will be reduced by the amount of B class individual daily extraction limit surrendered, and
 - (vi) the granting of these additional share component may only continue as long as the additional share component for this water source resulting from subclause (3) (c) does not exceed 250 ML/yr,
 - (d) an access licence resulting from an application of an application of a type listed in section 82 (1) of the Act,
 - (e) unregulated river (Aboriginal commercial) access licences, where the share component does not exceed 10 ML/yr per application,
 - (f) unregulated river (Aboriginal cultural) access licences where the share component does not exceed 10 ML/yr per application, or

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- (g) unregulated river (research) access licences where the share component does not exceed 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought are the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in Section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter *IDEL*) granted in accordance with subclause (3) cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 51.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

33 Aboriginal assessment of new access licences

- (1) The Minister will seek the views of the Bundjalung Aboriginal Elders Council and the Tweed Byron Local Aboriginal Land Council in relation to all dealings under sections 71D, 71F, 71J and 71G of the Act, and new access licence applications.
- (2) The Minister will consider any advice provided under subclause (1) before making a determination on an access licence application or dealing referred to in subclause (1).

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

34 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

35 Extraction management unit

Management of the long-term extraction of water from this water source will be undertaken in the context of the Brunswick River Catchment Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

36 Long-term average extraction limit

The long-term average extraction limit for this Unit of which this water source is a part will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit,
- (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in this water source at the commencement of this Plan, and
- (c) any access licence share component granted in accordance with clause 32 (3) (c).

37 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

38 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 36, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in Clause 43 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for

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the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 36 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 36, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

39 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b) and 21 (a) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

40 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

41 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

Note. Water allocations may be assigned to or from these accounts by water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

42 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 38.

43 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence's account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous 2 available water determinations
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

44 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

45 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

46 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 4.05 ML/day for B class, and
- (b) 5.004 ML/day for C class.

Note. These flows represent 45% of the top of B class flows and in C class flows 30% of the 30th percentile flows for all days in October.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

47 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Local water utility access licences:
 - (i) 0 ML/day of B class, and
 - (ii) 0 ML/day of C class.
- (b) Domestic and stock access licences:
 - (i) 0.004 ML/day of B class, and
 - (ii) 0.004 ML/day of C class.
- (c) Unregulated river access licences:
 - (i) 4.046 ML/day of B class, and
 - (ii) 5.000 ML/day of C class.

48 Unassigned TDEL

At the commencement of this Plan, there is 0.4 ML/day of unassigned TDEL in C class.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDEL's, or the operation of Part 8 of this Plan.

49 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 47 as its share component bears to all the share components of access licences of that category.

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- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

50 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 48 may be assigned to access licences in the following circumstances:
- (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the individual daily extraction limit sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) At the commencement of year 6 of this Plan, the Minister may allow unassigned TDEL to be assigned to existing access licences upon application, if a review by the Minister indicates that:
- (a) in this and downstream subcatchments, the requirements of the environment are satisfied, and
 - (b) the requirements of existing downstream access licence holders and basic rights landholder are satisfied.
- (3) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 49, as amended by clause 51.

51 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 50 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 47 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock and native title rights exceeds the volumes specified in Part 5 of this Plan:
- (a) first the unassigned TDEL specified in clause 48 then, if necessary, the TDEL for unregulated river access licences in clause 47 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will be reduced to comply with this diminished TDEL.

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- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new domestic and stock access licences, unregulated river (Aboriginal cultural) access licences, unregulated (Aboriginal commercial) access licences, and unregulated river (research) access licences, or
 - (b) a local water utility's IDEL requirements,then the TDEL for unregulated river access licences in clause 47 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) Pursuant to clause 32 (3) (c) if B class daily extraction limits are retired, the TDEL for unregulated river access licences in clause 46 (1) (a) and clause 47 (c) (i) will be reduced to reflect this change.
- (7) If B class daily extraction limits are surrendered in accordance with clause 32 (3) (c), the TDEL for unregulated river access licences in clause 46 (1) (a) and clause 47 (c) (i) will be reduced to reflect this change, and the environmental health water in clause 21 (1) (b) increased by a corresponding amount.
- (8) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 46 and 47 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 46 and 47 adjusted accordingly.

52 Administrative arrangements for managing access to daily flows

- (1) Notwithstanding the forgoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELs.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
 - (a) all access licences with IDELs shall be made part of a group maintained by the Minister, and
 - (b) access licences with IDELs will be assessed as a whole against their combined IDELs.
- (3) At any time when subclause (2) does not apply:
 - (a) access licence holders may make a request to form a group for their access licences,

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- (b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDEL, and
 - (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.
- (4) Groups will be managed according to the following rules:
- (a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
 - (b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
 - (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
 - (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
 - (e) an access licence may not be in more than one group, and
 - (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

53 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

54 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note. There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note. Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

55 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 60.

Note. Clause 57 relates to any dealings that involve an access licence moving from one water source to another.

56 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 55, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 50.

57 Rules for change of water source

- (1) This clause relates to dealings under section 71E of the Act.

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.

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- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source under this dealing only if the access licence cancelled is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

58 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence, or
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component.

59 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

60 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source and access licences in another water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

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Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

61 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Note. This will occur directly following a dealing under section 71E of the Act that changes the water source to which the access licence applies.

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Part 12 Mandatory conditions

62 Mandatory conditions on access licences

- (1) This Part is made in accordance with section 17 (c) and 20(2)(e) of the Act.
- (2) All access licences shall have mandatory conditions in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

63 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Unregulated river (Aboriginal commercial) access licences

The following conditions shall be imposed on unregulated river (Aboriginal commercial) access licences:

- (a) water shall only be taken by, or on behalf of, Aboriginal communities or Aboriginal persons,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the licence specifies that water may only be taken from a runoff harvesting dam.

65 Local water utility access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

66 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following::

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

67 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

68 Unregulated river (Aboriginal cultural) access licences

The following conditions shall be imposed on unregulated river (Aboriginal cultural) access licences:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing and gathering, and for recreation, cultural and ceremonial purposes,

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- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the licence specifies that water may only be taken from a runoff harvesting dam.

69 Unregulated river (research) access licences

All unregulated river (research) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other approved organisations, where any primary production resulting from the research program is not sold for profit,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

70 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,

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- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence,
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan,
- (g) a 100 metre buffer will be applied between any endangered ecological community and the location of any new water supply work, if required to protect the endangered ecological community, and
- (h) appropriate buffers will be applied between any Aboriginal sites of spiritual, cultural or social values as identified by the Bundjalong Elders and the relevant Aboriginal Land Council, and the location of any new water supply work, if required to protect the Aboriginal sites of spiritual, cultural or social values.

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Part 13 Granting and amending water supply works approvals

71 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

72 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

73 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

74 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with a water management committee, where one exists.

Note. Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

75 Amendment of this Plan

- (1) This Part is made in accordance with section 42 (2) of the Act.
- (2) This Plan can be amended in accordance with clause 51 in respect to adjustments to IDELs and TDELs.

Water Sharing Plan for the Upper Brunswick River Water Source 2003

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to an access licence share component when it is cancelled in one water source, and reissued in a different water source and visa versa, or when the access licence is converted from one category to another. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

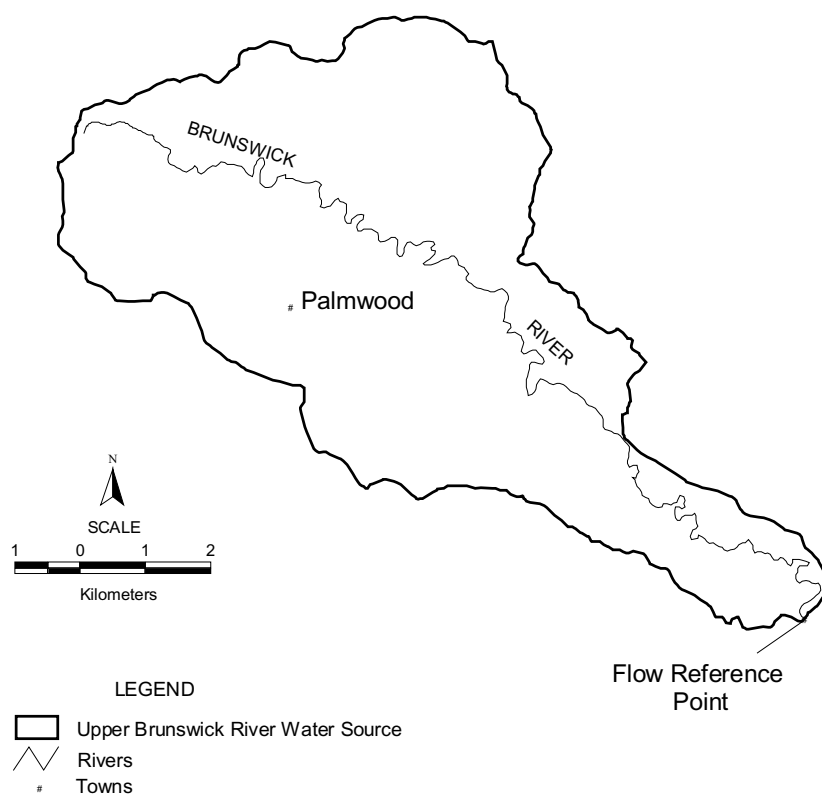
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Upper Brunswick River Water Source



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Schedule 3 Rivers in the Upper Brunswick River Water Source

This water source includes, without limitation:

Brunswick River (Main Arm) from the headwaters to the Western edge of Mullumbimby township

Chinbible Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

HIGH - while not fully contributing to target is considered a good level of contribution

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to the target

Relevant Target	Level of Contribution	Comments
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	The rules are set out in Part 9.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	FULL	This Plan protects medium to high flows, which are important for the threatened ecological community, Floodplain Rainforest Habitat and the threatened Mitchells Rainforest Snail, which is likely to be reliant on this vegetation type.
Target 4a Wherever the frequency of “end of system” daily flows would be less than 60 percent of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60 percent of predevelopment levels or increased by at least 10 percent of the predevelopment frequency	PARTIAL	- B class - 55% of flow protected which is not a 10% improvement on estimated current. - C class - 70% of flow protected.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field	FULL	Cease-to-pump levels protect flows below 2 ML/day from licensed extraction - which is 95th percentile

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investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile		for all days with flow.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	• This Plan clarifies access licence share components and establishes total daily extraction limits for distribution to individual licences. • This Plan enables trading of share components and individual daily extraction limits.
Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	• Total licenced share components for the Brunswick River Catchment Extraction Management Unit should not exceed 200% of extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	• The Government has established alternative mechanisms to address this target. • This Plan provides market opportunities. • This Plan provides for the issuing of licences for Aboriginal cultural and commercial purposes. • Unassigned water is available in C class and may be assigned to any licences issued for Aboriginal cultural and commercial purposes. • TDELs for unregulated river access licences can be adjusted to provide for new access licences for Aboriginal cultural and commercial purposes.
Target 8 Daily extraction	FULL	• This Plan establishes total daily

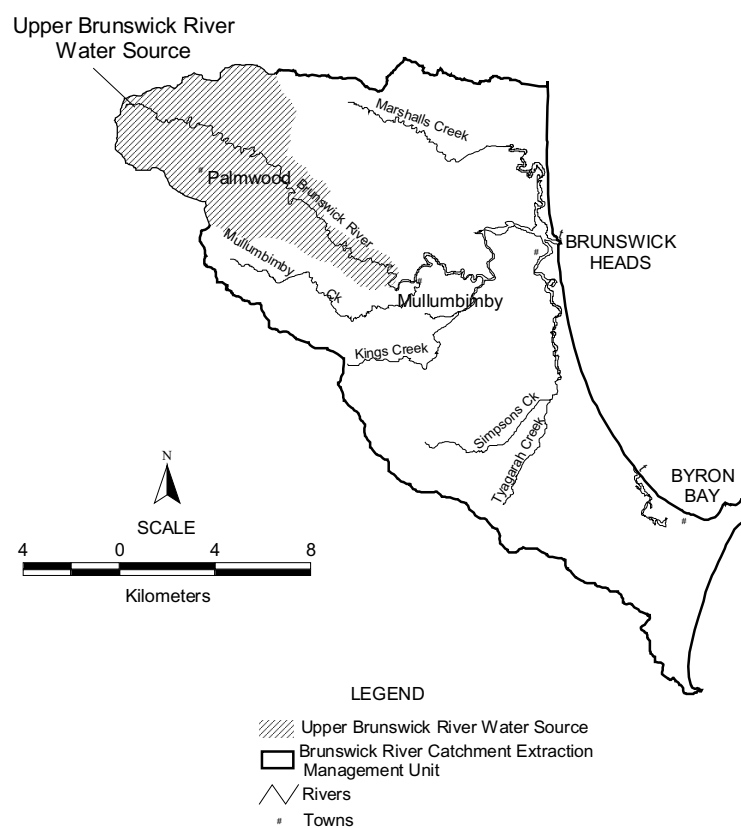
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components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers		extraction limits across the whole water source.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	• Cease to pump level will protect flows for domestic and stock rights.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	• 2 Aboriginal community representatives have been involved in development of plan. • Meetings were held with the Bundjalung Elders, and the Far North Coast Aboriginal Land Councils. • An Aboriginal Steering Committee for water sharing plans has been established and have developed a plan to assist the consultation process with local Aboriginal people, including a workshop, briefing of Tweed-Byron Aboriginal Land Council, a catchment community meeting, a protocols process and assistance in submission writing.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	• This Plan recognises importance of the river to Aboriginal cultural and spiritual values. • This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance. • This Plan does provide improved level of environmental protection which should assist in protecting Aboriginal values.
Target 16a All share	FULL	• This Plan provides for the trading

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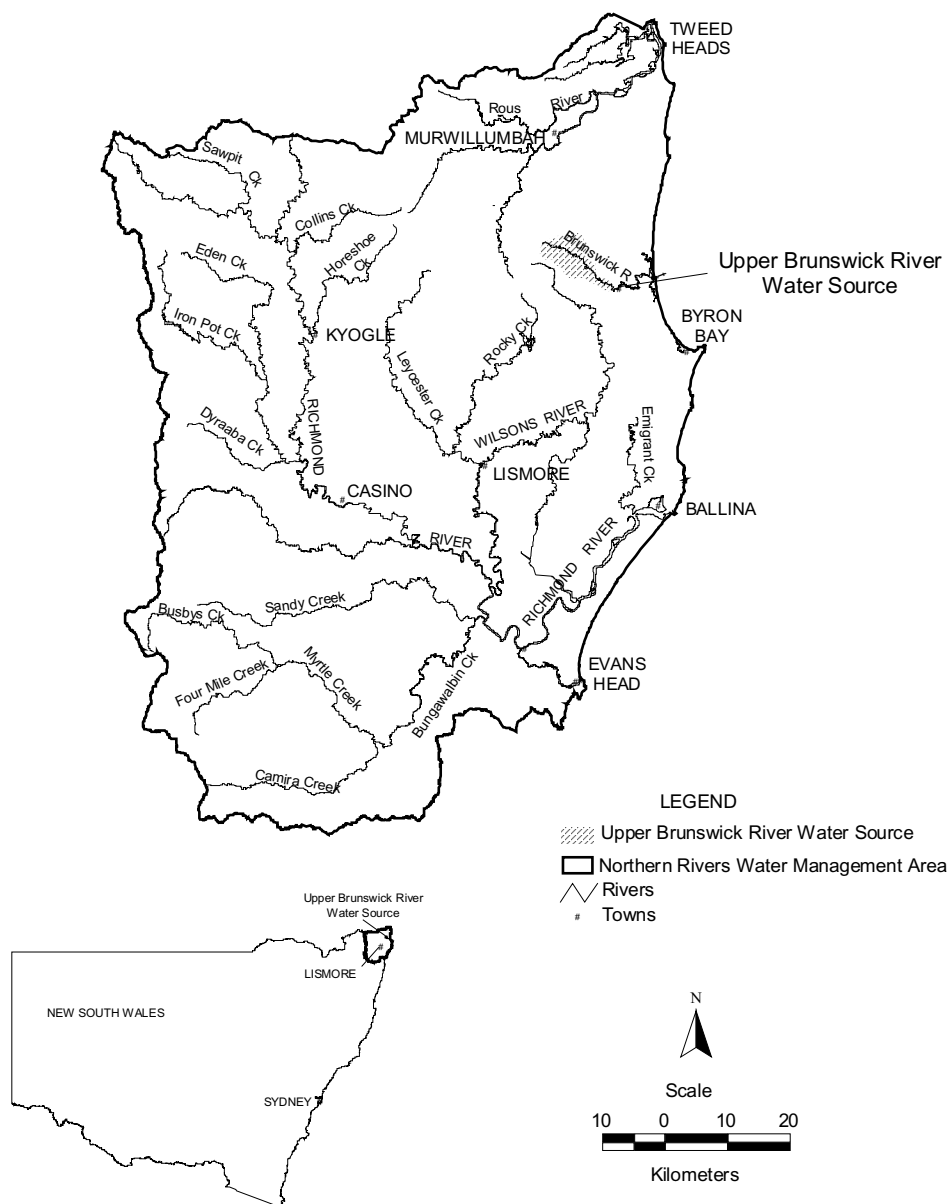
components of access licences tradeable		of share components or daily individual daily extraction limits.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	This Plan provides for the trading of share components from this water source to other water sources of the Brunswick River Catchment Extraction Management Unit.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	This Plan does not impose reduction factors.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	This Plan establishes rules for unassigned water in Part 10.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	PARTIAL	- This Plan includes a generalised water quality objective. - This Plan does provide a reasonably high level of environmental protection which should assist in protecting water quality.

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Schedule 5 Brunswick River Catchment Extraction Management Unit

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Appendix 1 Northern Rivers Water Management Area



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Appendix 2 Location of maps

The maps in relation to this Plan may be inspected at:

District Office
Department of Land and Water Conservation
Suite 6 Alstonville Plaza
ALSTONVILLE NSW 2477

Regional Office
Department of Land and Water Conservation
76 Victoria Street
GRAFTON NSW 2460

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Appendix 3 Performance indicators

Performance indicators for the Upper Brunswick River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (c) 11 (d) 11 (e) 11 (f) 11 (g) 11 (h)	Assessment of change in flow duration characteristics at identified reference points.	- River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. - Plan will contribute to a decrease in the frequency and duration of low flows. - This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a) 11 (c) 11 (e) 11 (f) 11 (g) 11 (h)	Assessment of change in flow duration characteristics at identified reference points.	- RFO 3. - Plan will maintain or increase the frequency and duration of moderate to high flows. - This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities access.	11 (d)	Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction).	Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.
(d) Change in	11 (b)	Periodic	Water sharing plans are limited to

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Performance indicators for the Upper Brunswick River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
ecological condition of this water source and dependent ecosystems.	11 (c) 11 (d) 11(e) 11 (g) 11 (h)	assessment of identified indicators for ecological condition.	providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e)Extent to which basic landholder rights requirements have been met.	11(a)	Assessment of cease to pump levels in relation to basic rights requirements.	• Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (f) 11 (g) 11 (h)	• Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred.	• There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(g) Extent to which native title rights requirements have been met.	11 (b)	• Assessment of cease to pump levels in relation to basic rights requirements.	• The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of recognition	11 (b)	• Assessment of amount and type of	• The collection of information on the values associated with water is

 Water Sharing Plan for the Upper Brunswick River Water Source 2003

Performance indicators for the Upper Brunswick River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
of spiritual, social and customary values of water to Aboriginal people.		information collected to identify the range of values of water to Aboriginal people. • The number of licence applications referred to the Amaroo Local Aboriginal Land Council.	considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement. • Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values.
(i) Contribution to the achievement of water quality to support environmental values of this water source.	11(h)	• Change in the baseline figures of identified water quality variables.	• Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

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farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, ***commitments to take water*** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or

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- (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:

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- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and

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- (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or

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- (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
 - (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
 - (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.

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- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or

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- (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and

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- (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.

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- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
- (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
- (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
- (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
- (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
- (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
- (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.



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