

# Water Sharing Plan for the Belubula Regulated River Water Source 2012

[2012-489]



New South Wales

## Status information

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# Water Sharing Plan for the Belubula Regulated River Water Source 2012



New South Wales

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## Part 1 Introduction

### Notes.

- 1 In accordance with section 48 of the *Water Management Act 2000*, the Minister must take all reasonable steps to give effect to the provisions of this Plan when exercising functions under the Act.
- 2 In accordance with section 49 of the *Water Management Act 2000*, public authorities must also have regard to the provisions of this Plan to the extent they apply to the public authority.
- 3 The Minister may amend this Plan at any time under section 45 of the *Water Management Act 2000*, including if satisfied it is in the public interest to do so, or in such circumstances, in relation to such matters and to such extent as Part 12 of this Plan provides.

### 1 Name of this Plan

This Plan is the *Water Sharing Plan for the Belubula Regulated River Water Source 2012 (this Plan)*.

### 2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000 (the Act)*.
- (2) This Plan is a plan for water sharing and generally deals with the matters set out in sections 20 and 21 of the Act, as well as other sections of the Act.

**Note.** Where a provision of this Plan is made for the purposes of another section of the Act, the section is referred to in notes to this Plan.

### 3 Commencement of this Plan

This Plan commences on the 4th October 2012.

### Notes.

- 1 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2013. The Minister may extend this Plan for a further period of 10 years after it is due to expire, in accordance with section 43A of the Act.
- 2 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was amended in 2022, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Lachlan surface water resource plan area.
- 3 **Basin Plan** is defined in the Dictionary.

### 4 Application of this Plan

- (1) This Plan applies to the Belubula Regulated River Water Source within the Lachlan Water Management Area (*the water source*).

**Note.** The Lachlan Water Management Area was constituted by Ministerial order made under section 11 of the Act and published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.

- (2) The Belubula Regulated River Water Source consists of all water between the banks of all rivers that have been declared by the Minister to be regulated rivers, from the Carcoar Dam water storage, downstream to the junction of the Belubula River with the Lachlan River.

**Notes.**

1 The *Regulated River Order for the Belubula Regulated River* was made by the Minister and published in the NSW Government Gazette No 92 on 14 September 2012 at page 3955 and amended by Part 5 of Schedule 12 of the Act.

2 An overview map of the water source is at Appendix 1.

3 The water source does not include water contained in the Lachlan Unregulated River Water Sources to which the [Water Sharing Plan for the Lachlan Unregulated River Water Sources 2012](#) applies.

## 5 (Repealed)

## 6 Interpretation

- (1) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in regulations made under the Act have the same meaning in this Plan.
- (2) Words and expressions that are defined in the Dictionary to this Plan have the meaning set out in the Dictionary.
- (3) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (4A) A number in brackets following the name of a gauge is the gauge number.
- (5) Notes in the text of this Plan do not form part of this Plan.
- (6) Appendices to this Plan do not form part of this Plan.

## Part 2 Vision, objectives, strategies and performance indicators

**Notes.**

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

2 This Part describes broad objectives, which are the long-term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in this Part are specific outcomes that can be achieved by the strategies in this Plan and can be directly measured so that success or failure to achieve the objective can be quantified.

### 6A Acknowledgement

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within the Lachlan Water Management Area.

## 7 Vision statement

The vision for this Plan is to provide for the following—

- (a) the health and enhancement of the water source and its water dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,

- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (d) social and cultural benefits to urban and rural communities that depend on surface water.

## 8 Environmental objectives

(1) The broad environmental objective of the Plan is to protect, and contribute to the enhancement of, the ecological condition of this water source and its water-dependent ecosystems over the term of this Plan.

(2) The targeted environmental objectives of this Plan are as follows—

(a) to protect and contribute to the enhancement of the following over the term of this Plan—

(i) the recorded distribution or extent, and the population structure, of target ecological populations,

**Notes.**

1 *Target ecological populations* is defined in the Dictionary.

2 Target ecological populations in the water source may include known or predicted populations of the following—

- (a) native fish including golden perch and Murray cod,
- (b) native vegetation including river red gum woodland,
- (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and native vegetation.

(ii) the longitudinal and lateral connectivity within and between water sources to support target ecological processes,

**Notes.**

1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means flows between the river and its anabranches, riparian zones, wetlands and floodplains.

2 Target ecological processes in the water source include—

- (a) fish movement across significant barriers
- (b) carbon and nutrient transport pathways, which are the connected networks of streams, riparian zones, floodplains and wetlands that transport dissolved and suspended organic material and nutrients throughout the water source.

3 Connectivity may be within the water source, and between the water source and other water sources.

(iii) water quality within target ranges for the water source to support water-dependent ecosystems and ecosystem functions,

**Note.** Water quality targets for the water source are defined in the Water Quality Management Plan for the Lachlan Water Resource Plan Area SW10.

(3) The strategies for achieving the targeted environmental objectives of this Plan are as follows—

- (a) maintain compliance with a long-term average annual extraction limit and a long-term average sustainable diversion limit,



**Note.** Part 7 of this Plan sets out the provisions for maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit.

- (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,

**Notes.**

**1** *Flow regimes* is defined in the Dictionary

**2** The provisions in clause 26 of this Plan outline end of system environmental flow rules that help mitigate alterations to the natural flow regime of the water source.

**3** The provisions in clauses 47, 48 and 49 of this Plan outline limits to the taking of uncontrolled flows and taking of water under high security, general security and supplementary water access licences, respectively.

- (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources,

**Note.** The provisions in clause 26, 33, 47, 48 and 49 of this Plan contribute to maintaining the hydrological connectivity within the water source and with downstream water sources by ensuring a portion of natural flows are protected.

- (d) reserve a share of water for the maintenance of water quality.

- (4) The performance indicator used to measure the success of the strategies for achieving the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for achieving the targeted environmental objectives in subclause (2) are the changes or trends in ecological condition during the term of this Plan, as assessed using one or more of the following—
  - (a) the recorded range, extent or condition of target ecological populations,
  - (b) measurements of fish movements through priority fish passage areas,
  - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
  - (d) the magnitude, frequency, timing and water quality of environmental water events.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
  - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which changes in the performance indicators can be attributed to the strategies and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
  - (d) the extent to which external influences on this water source during the term of this Plan have affected progress toward achieving the environmental objectives.

## 9 Economic objectives

- (1) The broad economic objective of this Plan is to maintain, and where possible improve, access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.
- (2) The targeted economic objectives of this Plan are as follows—
  - (a) to provide water trading opportunities for surface water-dependent businesses,  
**Note.** Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.
  - (b) to maintain, and where possible improve, access to water for agriculture, surface water-dependent businesses and landholders up to the long-term average annual extraction limit and the long-term average sustainable diversion limit,
  - (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for achieving the targeted economic objectives of this Plan are as follows—
  - (a) provide for trade of water allocations and access licence share components subject to environmental and system constraints,  
**Note.** The provisions in Part 10 of this Plan permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences and the assignment of water allocations between access licences.
  - (b) provide a stable and predictable framework for sharing water among water users,  
**Note.** The available water determination provisions in Part 7 and priority of extraction rules in clause 46 provide certainty in how water is to be shared between different categories of access licences.
  - (c) provide for flexibility of access to water,  
**Note.** The water allocation account management rules in Part 9 provide flexibility that reflects the characteristics of the licence category.
  - (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit, while recognising variability in climatic conditions in different years, including during drought,  
**Note.** The application of the long-term average annual extraction limit the long-term average sustainable diversion limit and the assessment and compliance provisions in Part 7 manage extractions to different climatic conditions in different years.
- (4) The performance indicator used to measure the success of the strategies for achieving the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for achieving the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan, as assessed using one or more of the following—
  - (a) the economic benefits of water extraction and use, including the movement of water to higher value uses,

- (b) the economic benefits of water trading including as demonstrated by—
  - (i) the annual number or volume of share components of access licences transferred or assigned,
  - (ii) the weighted average unit price of share components of access licences transferred or assigned,  
**Note— *Weighted average unit price*** is defined in the Dictionary.
  - (iii) the annual volume of water allocations assigned,
  - (iv) the weighted average unit price of water allocations assigned,
- (c) the recorded values of water quality measurements including salinity, sodium absorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
  - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which the changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the water made available during the term of this Plan through available water determinations and the granting of new licences,
  - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress towards achieving the economic objectives.

## **10 Aboriginal cultural objectives**

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows—
  - (a) to provide access to water in the exercise of native title rights,
  - (b) to provide access to water for Aboriginal cultural use, including fishing,
  - (c) to protect, and where possible improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
  - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for achieving the targeted Aboriginal cultural objectives of this Plan are as follows—
  - (a) manage access to water consistent with the exercise of native title rights,

- (b) provide for water associated with Aboriginal cultural values and uses,
    - Note.** The provisions in Part 8 provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory “Aboriginal cultural”.
  - (c) reserve a share of water to partially mitigate alterations to natural flow regimes in this water source,
  - (d) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.
- (4) The performance indicator used to measure the success of the strategies for achieving the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure success of the strategies for achieving the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan, as assessed using one or more of the following—
- (a) the use of water by Aboriginal people by measuring factors including—
    - (i) the extent to which native title rights are able to be exercised, consistent with any determination of native title or indigenous land use agreement,
    - (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,
  - (b) the recorded range or extent of target populations of native fish,
  - (c) the recorded range or condition of target populations of riparian vegetation,
  - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
- (a) the extent to which the strategies in subclause (3) and provisions in the Plan have been implemented and complied with,
  - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
  - (d) the water made available for Aboriginal cultural purposes during the term of this Plan through available water determinations and the granting of new access licences,
  - (e) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress toward achieving the Aboriginal cultural objectives.

### 10A Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to provide access to surface water to support surface water-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are to maintain, and where possible improve, the following—
  - (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
  - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing,
  - (c) water quality within target ranges for basic landholder rights, town water supply, licensed domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for achieving the targeted social and cultural objectives of this Plan are as follows—
  - (a) provide access to water for basic landholder rights, town water supply and for licensed domestic and stock purposes,

**Note.** The provisions for the maintenance of water supply in Part 6 ensure that water is available for basic landholder rights, town water supply and licensed domestic and stock purposes.
  - (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,
  - (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.

**Note.** The provisions in clause 26 of this Plan contribute to maintaining the hydrological connectivity within the water source and with downstream water sources.
- (4) The performance indicator used to measure success of the strategies for achieving the broad social and cultural objectives in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for achieving the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan, as assessed using one or more of the following—
  - (a) the social and cultural uses of water during the term of this Plan by measuring factors including—
    - (i) the extent to which basic landholder rights and licensed domestic and stock requirements have been met, and
    - (ii) the extent to which major utility access licence and local utility access licence requirements have been met,
  - (b) the recorded range or extent of target populations of native fish that are important for

- recreational fishing,
- (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
  - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
  - (d) the water made available during the term of this Plan through available water determinations and the granting of new licences,
  - (e) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress towards achieving the social and cultural objectives.

### **Part 3 Bulk access regime**

#### **11 Bulk access regime**

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following—
- (a) the environmental water provisions established under Part 4,
  - (b) the requirements for water to satisfy basic landholder rights under Division 2 of Part 5,
  - (c) the requirements for water for extraction under access licences identified under Division 3 of Part 5,
  - (d) the access licence dealing rules established in Part 10 of this Plan.
- (2) The bulk access regime for the water source—
- (a) recognises and is consistent with the following—
    - (i) limits to the availability of water as provided for in Division 1 of Part 7,
    - (ii) the water management principles set out in section 5 of the Act,
    - (iii) the effect of climatic variability on the availability of water as described in clause 12,and

- (b) establishes rules according to which—
  - (i) available water determinations are to be made as provided for in Division 2 of Part 7
  - (ii) access licences are to be granted as provided for in Part 8
  - (iii) access licences are to be managed as provided for in Part 9, and
- (c) establishes rules with respect to the priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in long-term average annual extraction against the long-term average annual extraction limit or long-term average sustainable diversion limit in Division 1 of Part 7, and
- (d) contains provisions with respect to the mandatory conditions imposed on access licences in Division 2 of Part 11.

## 12 Climatic variability

This Plan recognises the effects of climatic variability on river flow in the water source through provisions contained in Part 7 that—

- (a) manage the sharing of water in the water source within the limits of water availability on a long-term average annual basis,
- (b) establish priorities according to which water allocations are to be adjusted as a consequence of any reductions in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit or the long-term average sustainable diversion limit, and
- (c) manage the sharing of water between categories of access licences on an annual basis through available water determinations.

**Note.** Other statutory tools are available to manage for climatic variability within a water source, for example, temporary water restrictions under section 324 of the Act.

## Part 4 Planned environmental water provisions

**Note.** This Part is made in accordance with sections 8, 8A and 20 of the Act.

### 13 General

This Part contains environmental water provisions that commit, identify, establish and maintain planned environmental water.

**Note.** In accordance with the Act, planned environmental water is water that is committed by management plans for fundamental ecosystem health or other specified environmental purposes, either generally or at specified times or in specified circumstances and that cannot, to the extent committed, be taken or used for any other purpose.

### 14 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water by reference to the following—

- (a) the physical presence of water in the water source,
- (b) the long-term average annual commitment of water as planned environmental water, and

- (c) the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

## **15 Establishment and maintenance of planned environmental water**

- (1) Planned environmental water is established in the water source as follows—
  - (a) the physical presence of water resulting from—
    - (i) the end of system environmental flow rules as specified in clause 26,
    - (ii) the limitations on access to uncontrolled flows for regulated river (high security) access licences as specified in clause 47 and for regulated river (general security) access licences as specified in clause 48, and
    - (iii) the limitations on access to flows for supplementary water access licences as specified in clause 49,
  - (b) the long-term average annual commitment of water as planned environmental water resulting from compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit in Divisions 1 to 4 of Part 7, and
  - (c) the water remaining in the water source after water has been taken pursuant to basic landholder rights and access licences, in accordance with the rules specified in Parts 7 and 9 of this Plan.
- (2) The planned environmental water established under subclause (1) (a) is maintained by—
  - (a) the end of system environmental flow rules as specified in clause 26, and
  - (b) the limitations on access to uncontrolled flows for regulated river (high security) and regulated river (general security) access licences in clauses 47 and 48, and
  - (c) the limitations on access to flows for supplementary water access licences in clause 49.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the rules in Divisions 1 to 4 of Part 7.
- (4) The planned environmental water established under subclause (1) (c) is maintained by the rules specified in Division 1 of Part 7 and Part 9 of this Plan.

**Note.** The provisions in Divisions 1 to 4 of Part 7 of this Plan ensure that there will be water remaining in the water source over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. These provisions also provide reduced available water determinations when either of these limits has been assessed to have been exceeded.

## **Part 5 Requirements for water**

### **Division 1 General**

#### **16 Application**

- (1) This Part identifies the requirements for water for basic landholder rights and for extraction under access licences in the water source.



- (2) The amounts of water specified in this Part represent the estimated requirements for water to satisfy basic landholder rights and the total volumes or unit shares specified in the share components of all access licences on commencement of this Plan.
- (3) This Plan recognises requirements for basic landholder rights and the total share components of all access licences may change during the term of this Plan.

**Notes.**

**1** The total share components of access licences in the water source may change during the term of this Plan as a result of—

- (a) the grant, surrender or cancellation of access licences in the water source, or
- (b) the variation of local water utility licences under section 66 of the Act.

**2** Basic landholder rights requirements may increase as provided for under the Act. This Plan manages changes in basic landholder rights and total share components of all access licences through provisions in Part 7 that manage the sharing of water within the limits of water availability.

**3** Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water should not be consumed, or otherwise used, without first being tested and, if necessary, appropriately treated to ensure it is fit for purpose. Testing and treatment is the responsibility of the water user.

## Division 2 Requirements for water for basic landholder rights

**Note.** Under the Act, basic landholder rights are defined as domestic and stock rights, native title rights and harvestable rights. There are no harvestable rights in the water source.

### 17 Domestic and stock rights

On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights in the water source are estimated to total 0.55 megalitres per day (hereafter *ML/day*).

**Notes.**

- 1 Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.
- 2 Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.
- 3 The volumes set out in this clause are separate from any volumes of water that may be taken under an access licence for domestic and stock purposes.

### 18 Native title rights

The requirement for water to satisfy native title rights is the water that may be taken in the exercise of native title rights in accordance with the *Native Title Act 1993* of the Commonwealth, including—

- (a) any determination of native title, and
- (b) any indigenous land use agreement.

**Notes.**

- 1 No determinations of native title in relation to the water source have been made in accordance with the *Native Title Act 1993* of the Commonwealth.
- 2 This Plan may be amended if there is a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

### 19 (Repealed)

## Division 3 Requirements for water for extraction under access licences

### 20 Share components of domestic and stock access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock access licences will total 233 megalitres per year (ML/year).

### 21 Share components of local water utility access licences

On the commencement of this Plan, it is estimated that the share components of local water utility access licences will total 0 ML/year.

### 22 Share components of regulated river (high security) access licences

On the commencement of this Plan, it is estimated that the share components of regulated river (high security) access licences will total 1,095 unit shares.

### **23 Share components of regulated river (general security) access licence**

On the commencement of this Plan, it is estimated that the share components of regulated river (general security) access licences will total 22,766 unit shares.

### **24 Share components of supplementary water access licences**

On the commencement of this Plan, it is estimated that the share components of supplementary water access licences will total 3,125 unit shares.

## **Part 6 System operation rules**

**Note.** *NSW Environmental Water Manager* and *Operator* are defined in the Dictionary.

### **25 (Repealed)**

### **26 End of system environmental flow rules**

- (1) The operator must manage the water supply system in the water source to maintain a flow at the Helensholme gauge (412033) of 10 ML/day.
- (2) To achieve subclause (1), the operator must—
  - (a) set aside sufficient volumes of water from inflows into the water source and in reserves held in Carcoar Dam, and
  - (b) release that water when necessary to meet the requirements of subclause (1).
- (3) Subclause (1) does not apply between the following—
  - (a) the date on which the average flow in Flyers Creek at Beneree (412080) over 120 consecutive days falls to 10 ML/day or less, and
  - (b) the date on which the average flow in Flyers Creek at Beneree (412080) over 90 consecutive days subsequently exceeds 40 ML/day.
- (4) Unless subclause (1) is suspended by an order made under section 49A or 49B of the Act, if for operational reasons releases to maintain the required flow at Helensholme under subclause (1) cannot be made, the operator must release any outstanding amount at a later date in accordance with a plan prepared by the NSW Environmental Water Manager and approved by the Minister.

### **26A Minimum daily release rules from Carcoar Dam for supply of basic landholder rights**

- (1) The operator must make a daily release of 2 ML/day from Carcoar Dam.
- (2) The operator may use the water released under subclause (1) to satisfy the following—
  - (a) basic landholder rights water requirements,
  - (b) access licence water orders.

### **27 Water delivery and channel capacity constraints**

In managing the water supply system, the operator must consider, determine and specify the operating channel capacities throughout the water source after taking into account, in accordance

with any procedures established by the Minister, the following—

- (a) inundation of private land or interference with access,
- (b) the effects of inundation on the floodplain and associated wetlands,
- (c) the transmission losses expected to occur,
- (d) capacities of water management structures controlled by the Minister.

**Notes.**

- 1 There are no defined channel constraints at the commencement of this Plan.
- 2 **Transmission losses** is defined in the Dictionary.

## **28 Rates of change to storage releases**

When changing the rate of the release from Carcoar Dam, the operator must consider relevant environmental impacts, damage to river banks, public safety, and operational efficiency in accordance with any procedures established by the Minister.

## **29 Supply of orders when remaining allocations are low**

- (1) The operator may group water orders or periodically release water in accordance with any procedures that have been established by the Minister in consultation with access licence representatives and the NSW Environmental Water Manager, if the continuous delivery of water orders would involve unacceptably high delivery losses,
- (2) The operator is to consult with water access licence representatives and relevant government agencies, as the operator considers appropriate, before grouping water orders and releasing water in accordance with subclause (1).

## **30 Dam operation during floods and spills**

- (1) The operation of Carcoar Dam during times of flood and spilling of water is to be undertaken in a manner that maintains the safety of dam infrastructure.
- (2) Providing it is consistent with subclause (1), the operation must aim to—
  - (a) leave the storage at full supply level at the completion of the flood or spilling of water, and
  - (b) minimise downstream flood damage where possible.

## **31 Maintenance of water supply**

- (1) In this clause, the period of lowest accumulated inflows to the water source is identified by flow information held by the Department prior to the commencement of this plan.
- (2) The operator must operate the water supply system in such a way that water would be able to be supplied for at least two consecutive years during a repeat of the period of lowest accumulated inflows to the water source, to meet the following—
  - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights, and
  - (b) available water determinations of 100% of share components for domestic and stock access

licences and local water utility access licences, and

- (c) available water determinations of 1 ML per unit share for regulated river (high security) access licences.
- (3) The operator must set aside sufficient volumes of water from inflows into the water source and in reserves held in Carcoar Dam to provide for the requirements of subclause (2).

**Notes.**

**1** As at the commencement of this plan, reserves in Carcoar Dam can only guarantee supply of the water allocations set out in subclause (2) for a period of two years.

**2** During the course of an extended drought, the Incidence Response Guide applies, outlining how the water source should be managed during an extreme event. Every attempt will be made to maintain the operation of this Plan, however some rules and operating practices may require suspension of some parts to meet critical human water needs.

- (4) By 30 June 2026, the Minister will undertake a review of this clause that considers the following—
  - (a) options for redefining the period of lowest accumulated inflows to the water source,
  - (b) whether different periods should apply to different categories of access licences,
  - (c) the impact of any options for change on planned environmental water and each category of access licence, and
  - (d) the views of stakeholders and the broader community.
- (5) On the basis of the review referred to in subclause (4), the Minister may make such amendments to this clause as are reasonably necessary to not jeopardise the critical needs of basic landholder rights, domestic and stock access licence holders and local water utility access licence holders.
- (6) Any amendments made under subclause (5) cannot substantially alter the long-term average annual amount of water able to be extracted under water access licences.

**Notes.**

**1** *Water supply system* and *reserves* are defined in the Dictionary.

**2** If satisfied that it is in the public interest to do so, the Minister may amend this clause under s.45 (1) (a) of the Act to such an extent that it substantially alters the long-term average annual amount of water able to be extracted under water access licences. If this occurs, compensation may be payable under Chapter 3 Part 2 Division 9 of the Act.

**3** Section 10.28 of the Basin Plan requires that a water resource plan must ensure there is no net reduction in the protection of planned environmental water from the protection provided under State water management law immediately before the commencement of the Basin Plan.

### **31A Priority of delivery for access licences**

- (1) This clause does not apply to supplementary water access licences.
- (2) Where the extraction component of an access licence in the water source does not specify a rate of extraction as a share of supply capability or a volume per unit time, the following priority of extraction will apply whenever supply capability is insufficient to satisfy all water requirements in any section of the water source—
  - (a) water will be supplied to domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for

water, in that order, and

- (b) then any remaining supply capability will be shared between regulated river (general security) access licences that have placed an order for water, in proportion to share components specified on the access licences.

**Note.** During periods of channel capacity constraint, the implementation of the above provisions may result in short term ordering delays.

## Part 7 Limits to the availability of water

**Note.** This Part sets out the rules for managing the availability of water for extraction in accordance with the following extraction limits—

- (a) a long-term average annual extraction limit, and
- (b) a long-term average sustainable diversion limit.

## Division 1 Calculations under this Part

### 32 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following—
    - (a) the long-term average annual extraction limit under clause 33,
    - (b) the long-term average annual extraction under clause 34,
    - (c) the annual permitted take under clause 37,
    - (d) the annual actual take under clause 37.
- Note.** *Annual permitted take* and *annual actual take* are defined in the Dictionary.
- (2) Any calculation to which this clause applies must include allocations assigned to an access licence in the water source from an access licence in another water source under section 71T or 71V of the Act.
  - (3) The calculation of the long-term average annual extraction limit under clause 33 must be adjusted by a volume that appropriately reflects the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act.
  - (4) For the avoidance of doubt, the following are not extraction for the purposes of calculations to which this clause applies—
    - (a) allocations assigned from an access licence in the water source to an access licence in another water source under section 71T or 71V of the Act,
    - (b) environmental water released under clause 26.

## Division 2 Long-term average annual extraction limit

### 33 Calculation of the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister must calculate the long-term average annual extraction limit for the water source in accordance with this clause and clause 32.

- (2) The long-term average annual extraction limit is the lesser of the following—
- (a) long-term average annual extraction calculated based on the following—
    - (i) the water storages and water use development that existed in 2009/2010,
    - (ii) the basic landholder rights and access licence share components that existed at the commencement of this Plan,
    - (iii) the rules defined in this Plan, at the commencement of this Plan,  
**Note.** The rules referred to in paragraph (iii) include any rules within this Plan that impact on the amount of water that can be extracted, or conditions under which water may be extracted from the Belubula Regulated River Water Source, including the environmental release rules in Part 6 of this Plan and access rules in Division 2 of Part 9 of this Plan.
    - (iv) the level of development for plantation forestry that existed on 1 July 2009,
  - (b) long-term average annual extraction calculated under Cap baseline conditions as agreed under the Murray-Darling Basin Agreement that was in place at the commencement of this Plan.
- (3) For the purposes of subclause (2), the long-term average annual extraction limit is to be calculated over the duration of available climate records using the hydrological computer model approved by the Minister.

**Notes.**

- 1 Under section 8F of the Act the long-term average annual extraction limit is taken to be varied by the amount of any change to the amount of water committed as licensed environmental water, excluding water committed under section 8C of the Act.
- 2 The long-term average annual extraction limit recognises the effect of climatic variability on the availability of water, in accordance with section 20 (2) (c) of the Act, as historic climate and river flow information is used in its determination.
- 3 **Water use development** and **plantation forestry** are defined in the Dictionary.

### 34 Calculation of long-term average annual extraction

The Minister, using a current conditions hydrological computer model approved by the Minister, is to calculate the long-term average annual extraction following the end of each water year, calculated over the duration of available climate records and based on the following—

- (a) the water storages and water use development in that water year,
- (b) the basic landholder rights and access licence share components that existed in that water year,
- (c) the rules in this Plan that applied in that water year,
- (d) the level of development for plantation forestry in that water year,

**Note.** It is intended that the Department's current conditions hydrological computer model will be extended each water year and used to calculate long-term average annual extraction under this clause.

### 35 Assessment of compliance with the long-term average annual extraction limit

- (1) Following the calculations under clauses 33 and 34, the Minister is to compare the long-term average annual extraction against the long-term average annual extraction limit.

- (2) There is non-compliance with the long-term average annual extraction limit if the long-term average annual extraction exceeds the long-term average annual extraction limit by 3% or more.

### **Division 3 Long-term average sustainable diversion limit**

#### **36 Calculation of the long-term average sustainable diversion limit**

- (1) Subject to any variation under subclause (2), the long-term average sustainable diversion limit for the water source is—
  - (a) the component of the baseline diversion limit for the Lachlan surface water SDL resource unit as determined under Schedule 3 of the Basin Plan that, in the Minister’s opinion, is attributable to the water source, minus
  - (b) the component of the local reduction amount for the Lachlan surface water SDL resource unit as determined under Schedule 2 of the Basin Plan that, in the Minister’s opinion, is attributable to the water source, plus
  - (c) the component of the SDL adjustment amount for the Lachlan surface water SDL resource unit as determined under section 6.05A of the Basin Plan that, in the Minister’s opinion, is attributable to the water source.
- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

**Notes.**

- 1 **Baseline diversion limit, Lachlan surface water SDL resource unit** and **SDL adjustment amount** are defined in the Dictionary.
- 2 The long-term sustainable diversion limit for the Lachlan surface water SDL Resource Unit as specified in Schedule 2 of the Basin Plan covers extraction from the Belubula Regulated River Water Source, Lachlan Regulated River Water Source and Lachlan Unregulated River Water Sources.
- 3 Schedule 2 of the Basin Plan specifies a local reduction amount of 48,000 ML/year for the Lachlan surface water SDL Resource Unit.

#### **37 Calculation of annual permitted take and annual actual take for the water year**

- (1) Following the end of each water year, the Minister is to calculate the annual permitted take and annual actual take of water for the previous water year in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to the water source.

**Notes.**

- 1 Take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation as they fall outside the definition of take for consumptive use.
- 2 **Take** and **consumptive use** are defined in section 4 of the *Water Act 2007* of the Commonwealth.

#### **37A Assessment of compliance with the long-term average sustainable diversion limit**

- (1) Following the calculation under clause 37 the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the



circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

## **Division 4 Compliance with extraction and diversion limits**

### **37B Action following non-compliance**

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 35 or 37A demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister must take the following actions—
  - (a) make future available water determinations for supplementary water access licences under clause 43 of less than 1 ML per unit share, and
  - (b) reduce the take limit for regulated river (general security) access licences specified in clause 45(5).

**Note.** Action under this clause will have effect from the water year following the assessment, which will be two water years after the non-compliance occurred.
- (2) The Minister may also take the actions specified in subclause (1) as a result of any action taken under clause 6.12 (5) of the Basin Plan.
- (3) Any action taken in under subclauses (1) and (2) must only be taken to the extent to which, and only for as long as, the Minister considers the following is necessary—
  - (a) in the case of non-compliance with the long-term average annual extraction limit—to return long-term average annual extraction in the water source to the long-term average annual extraction limit,
  - (b) in the case of non-compliance with the long-term average sustainable diversion limit—to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
  - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse—to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) Actions to available water determinations for supplementary water access licences and the take limit for regulated river (general security) access licences under subclauses (1) and (2) are to be applied equally.
- (5) For the purposes of subclauses (1), (2) and (4), regulated river (general security) and supplementary water access licences have the same priority.
- (6) Before taking any action under this clause, the Minister may consult with water user representatives, the NSW Environmental Water Manager and the operator regarding the following—
  - (a) the data used for the calculations under Divisions 2 and 3,
  - (b) the proposed actions under this Division.

## **Division 5 Available water determinations**

### **38 General**

- (1) Available water determinations for access licences are to be expressed as one of the following—
  - (a) for an access licence specifying the share component in ML/year—a percentage of the share component,
  - (b) for an access licence specifying the share component as a number of unit shares— ML per unit share.
- (2) The sum of available water determinations made for any access licence must not, in any water year, exceed the following—
  - (a) for any access licence where share components are specified as ML/year— 100% of the share component,
  - (b) for regulated river (high security) access licences — 1 ML per unit share of the share component,
  - (c) for all supplementary water access licences — 1 ML per unit share of the share component, or such lower amount determined under Division 4 of Part 7.

### **39 Available water determinations for domestic and stock access licences**

Unless the Minister determines otherwise, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for domestic and stock access licences.

### **40 Available water determinations for local water utility access licences**

Unless the Minister determines otherwise, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for local water utility access licences.

### **41 Available water determinations for regulated river (high security) access licences**

- (1) Unless the Minister determines otherwise and subject to subclause (2), at the commencement of each water year an available water determination is to be made for regulated river (high security) access licences of 1 ML per unit share.
- (2) The Minister must not make an available water determination in accordance with this clause unless sufficient water is available for all of the following—
  - (a) to meet the end of system environmental flow rules established in clause 26,
  - (b) to meet the requirements for basic landholder rights,
  - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
  - (d) to provide for existing water allocations remaining in water allocation accounts,

(e) to account for water losses associated with holding and delivering the water—

(i) to be made available as a result of the available water determinations made in accordance with subclause (1), and

(ii) referred to in paragraphs (a) to (d).

**Note.** If the available water determination is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to clause 38 (2).

#### **42 Available water determinations for regulated river (general security) access licences**

(1) At the commencement of each water year, and at least monthly, the Minister is to assess if water is available for the making of an available water determination for regulated river (general security) access licences.

(2) For the purposes of the assessment, water is not available unless sufficient water is available for all of the following—

(a) to meet the end of system environmental flow rules established in clause 26,

(b) to meet the requirements for basic landholder rights,

(c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,

(d) to make available water determinations totalling 1 ML per unit share for regulated river (high security) access licences,

(e) to provide for existing water allocations in water allocation accounts,

(f) to account for water losses associated with holding and delivering the water—

(i) to be made available as a result of the available water determinations made for regulated river (general security) access licences, and

(ii) referred to in paragraphs (a) to (e).

#### **43 Available water determinations for supplementary water access licences**

Unless the Minister otherwise determines, at the commencement of each water year, the Minister is to make an available water determination for supplementary water access licences of 1 ML per unit share, unless a lower amount is determined under Division 4 of Part 7.

**Note.** Taking water under a supplementary water access licence is subject to clause 49.

### **Part 8 Rules for granting access licences**

#### **Notes.**

**1** This Part is made in accordance with sections 20 (2) (b), 61 and 63 of the Act. Section 61 of the Act provides for applications for specific purpose access licences in accordance with the regulations and the relevant water sharing plan.

**2** Access licences granted in the water source will be subject to mandatory conditions required to be imposed by this Plan, the regulations and the Act, and may be subject to discretionary conditions.

#### 44 Specific purpose access licences

- (1) The Minister must not grant a specific purpose access licence unless satisfied that the share and extraction components of the access licence are the minimum required for the proposed use.
- (2) A person may make an application for a regulated river (high security) (Aboriginal cultural) access licence if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) The Minister may only grant a regulated river (high security) (Aboriginal cultural) access licence if—
  - (a) the licence is primarily for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including the following—
    - (i) drinking and food preparation,
    - (ii) washing,
    - (iii) manufacturing traditional artefacts,
    - (iv) watering domestic gardens,
    - (v) cultural teaching,
    - (vi) hunting, fishing and gathering,
    - (vii) traditional food production,
    - (viii) purposes to achieve environmental outcomes,
    - (ix) recreational, cultural and ceremonial purposes and,
  - (b) any commercial benefit obtained by the taking or use of the water is only ancillary or incidental to the purpose for which the water was taken.

**Note.** *Aboriginal person* is defined in the Dictionary.

### Part 9 Operation of water allocation accounts and managing access licences

#### Division 1 Water allocation account management rules

##### Notes.

1 Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part restrict the water that may be taken under, or assigned from, an access licence over a specified period of time, and the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These restrictions are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.

2 The provisions in this Part apply to the following—

- (a) the Minister in managing water allocation accounts,
- (b) the access licence holder, as required by mandatory conditions imposed on the access licence under Part 11.

#### 45 Individual access licence account management rules

##### General

- (1) For any access licence:

- (a) if the Minister has given written notice to the holder of the licence in accordance with a water order debiting protocol established by the Minister, the Minister must debit the greater of the following from the water allocation account for that access licence when water is ordered:
  - (i) the volume of water extracted by water supply works nominated by the access licence,
  - (ii) the water ordered for extraction under the access licence,
- (b) otherwise, the Minister must debit the volume of water extracted by water supply works nominated by the access licence from the water allocation account for that access licence, except in respect of uncontrolled flows, where subclause (13) and (14) apply,
- (c) the Minister must withdraw water from a water allocation account as required to ensure compliance with the maximum volume of water allocations that may be held in the account under clause (11).

**Note.** The Minister may take action under subclause (1) if, for example, water orders from a particular licence holder exceed the volume of water taken under the licence and this cannot be explained by rainfall or other unavoidable factors.

- (2) Water allocations remaining in the water allocation account of an access licence, other than a regulated river (general security) access licence, must not be carried over from one water year to the next.

**Maximum water to be taken**

- (3) In any water year, the water taken under an access licence in the water source, excluding regulated river (high security) access licences and regulated river (general security) access licences must not exceed a volume equal to:
  - (a) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in that water year, plus
  - (b) any water allocations assigned from another access licence under section 71T of the Act in the water year, plus
  - (c) any water allocations re-credited in accordance with section 76 of the Act in the water year, minus
  - (d) any water allocations assigned to another access licence under section 71T of the Act in the water year.
- (4) In any water year, the water taken under a regulated river (high security) access licence in the water source must not exceed a volume equal to:
  - (a) 1 ML per unit share of the regulated river (high security) access licence share component, plus

- (b) any water allocations assigned from another access licence under section 71T of the Act in the water year, plus
  - (c) any water allocations re-credited in accordance with section 76 of the Act in the water year, minus
  - (d) any water allocations assigned to another access licence under section 71T of the Act in the water year.
- (5) At any time after the first water year of this Plan, the volume of water taken under a regulated river (general security) access licence (including from uncontrolled flows in accordance with clause 48) in a water year must not exceed the sum of the following (*the take limit*):
- (a) 1 ML per unit of share component of the access licence (or such lower amount as determined by the Minister under clause 37B), plus
  - (b) any water allocations assigned to the A sub-account of the access licence under section 71T of the Act during that water year, minus
  - (c) any water allocations assigned from the A sub-account of the access licence under section 71T of the Act during that water year.

**Note:** The assignment of shares under 71Q of the Act may also change the take limit during a water year as a result of subclause (5)(a).

**Regulated river (general security) access licences accounts**

- (6) The water allocation accounts of all regulated river (general security) access licences will be comprised of two sub-accounts, referred to as the *A sub-account* and the *B sub-account*.
- (7) Water allocations remaining in the water allocation account of a regulated river (general security) access licence must be carried over from one water year to the next.
- (8) At the beginning of each water year, the volume of water allocations in the A sub-account of each regulated river (general security) access licence will be compared against the take limit for the licence at the beginning of the water year and:
  - (a) if the volume of water allocations in the A sub-account is less than the take limit, then water allocations will be moved from the B sub-account to the A sub-account until the volume of water allocations in the A sub-account equals the take limit or there is no longer water allocations available to move, or
  - (b) if the volume of water allocations in the A sub-account is greater than the take limit, then water allocations will be moved from the A sub-account to the B sub-account until the volume of water allocations in the A sub-account equals the take limit.
- (9) Water allocations from available water determinations for regulated river (general security) access

licence will be credited to the A sub-account:

- (a) if the sum of the following is less than the take limit for the licence:
    - (i) the volume of water allocations in the A sub-account resulting from adjustments under subclause (8),
    - (ii) the sum of allocations credited to the A sub-account in that water year from available water determinations, and
  - (b) until the sum of subclause (9)(a)(i) and (ii) equals the take limit.
- (10) Water allocations from available water determinations for regulated river (general security) access licences that are not credited to the A sub-account under subclause (9) are to be credited to the B sub-account.
- (11) The sum of the volume of water allocations held in the A sub-account of a regulated river (general security) access licence plus the volume of water allocations held in the B sub-account of the access licence must not, at any time, exceed a volume equal to 1.1 ML per unit share.
- (12) Water taken under a regulated river (general security) access licence is to be debited from the A sub-account of the access licence, except in relation to uncontrolled flows where water is to be withdrawn from the B sub-account when there are no allocations remaining in the A sub-account.

#### **Water taken from uncontrolled flows**

- (13) The water allocation account of a regulated river (general security) access licence or regulated river (high security) access licence must be withdrawn by the lesser of the following amounts for water taken from uncontrolled flows if an available water determination is made for that category of licence after that water has been taken:
- (a) the volume of allocations credited by the available water determination,
  - (b) the volume of water taken from uncontrolled flows under the licence during the water year that has not been withdrawn that water year.
- (14) If the total amount of uncontrolled flows taken under an access licence exceeds the respective limit specified in subclause 47(3) or 48(2)(f), then a volume equivalent to the exceedance must be withdrawn from allocations credited to the access licence water allocation account in that water year.

## **Division 2 Access licence extraction components**

### **46 Amendment of extraction components**

- (1) The extraction components of access licences in the water source may be amended under section 68A of the Act to specify a volume per unit of time or share of supply capability in order to share the impacts of any future physical supply constraint amongst access licences.
- (2) The rate or shares specified in the amended extraction components of domestic and stock access licences, local water utility access licences and regulated river (high security) access licences

under subclause (1) should, where possible, be the amount which, in the Minister's opinion, is sufficient to satisfy the maximum daily water requirements.

- (3) The rate or shares specified in the amended extraction components of the regulated river (general security) access licences under subclause (1) should be in proportion to the share component of each access licence.
- (4), (5) (Repealed)

### **Division 3 Uncontrolled flow and supplementary water access rules**

#### **47 Taking of uncontrolled flows under regulated river (high security) access licences**

- (1) The holder of a regulated river (high security) access licence that nominates a water supply work that has metering equipment installed in connection with it, is permitted to take water from uncontrolled flows in accordance with this clause.

**Note.** *Uncontrolled flows* are defined in the Dictionary to this Plan.

- (2) The following rules apply to the taking of uncontrolled flows—
  - (a) when the sum of available water determinations in any water year is less than or equal to 0.2 ML per unit share for regulated river (high security) access licences then the taking of water will only be permitted when uncontrolled flows in the Belubula Regulated River are greater than or equal to 13 ML/day at the Helensholme gauge (412033),
  - (b) when the sum of available water determinations in any water year is less than or equal to 0.5 ML and greater than 0.2 ML per unit share for regulated river (high security) access licences then the taking of water will only be permitted when uncontrolled flows in the Belubula Regulated River are greater than or equal to 20 ML/day at the Helensholme gauge (412033),
  - (c) when the sum of available water determinations in any water year is greater than 0.5 ML per unit share for regulated river (high security) access licences, the taking of water from uncontrolled flows will not be permitted.
- (3) The total amount of water that may be extracted under this clause in any water year by a regulated river (high security) access licence holder must not exceed an amount that is equal to 0.5 ML per unit share of the regulated river (high security) access licence share component.
- (4) (Repealed)
- (5) Access licence holders must supply the operator with meter readings taken immediately prior to and after the taking of uncontrolled flow within 7 days of ceasing to take uncontrolled flows.

#### **48 Taking of uncontrolled flows under regulated river (general security) access licences**

- (1) The holder of a regulated river (general security) access licence (other than a licence specified in Schedule 1) that nominates a water supply work that has metering equipment installed in connection with it is permitted to take water from uncontrolled flows, except as set out in subclause (2).
- (2) The taking of uncontrolled flows by any regulated river (general security) access licence is not permitted in any of the following circumstances—
  - (a) when flows at the Helensholme gauge (412033) are less than 10 ML/day,



- (b) between the following—
- (i) the date on which the average flow at the Helensholme gauge (412033) over 120 consecutive days falls to 10 ML/day or less, and
  - (ii) the date on which the average flow at the Helensholme gauge (412033) over 10 consecutive days subsequently reaches 70 ML/day or more,
- (c) if the effective available water is less than or equal to 0.2 ML per unit share, unless flows at the Helensholme gauge (412033) are greater than or equal to 13 ML/day,
- (d) if the effective available water is less than or equal to 0.5 ML per unit share and greater than 0.2 ML per unit share, unless flows at the Helensholme gauge (412033) are greater than or equal to 20 ML/day,
- (e) if the effective available water is greater than 0.5ML per unit share and the volume of water in Carcoar Dam storage is less than 21,000 ML, unless flows at the Helensholme gauge (412033) are equal to or greater than 20 ML/day,
- (f) if it would cause the total amount of uncontrolled flow taken in the water year under the access licence to exceed the lesser of the following amounts:
- (i) the A sub-account limitation as at the time of each uncontrolled flow,
  - (ii) 0.5 ML multiplied by the share component for that regulated river (general security) access licence at the beginning of that water year.
- (3) For the purposes of subclause (2)—
- (a) *A sub-account limitation* is equal to the amount calculated using the formula:

$$F - G$$

where:

*F* equals the take limit as at the time of the uncontrolled flow,

*G* equals the volume of water allocations credited to the A sub-account under clause 45 (8) plus any allocations credited to the A sub-account under an available water determination made between the commencement of the water year and the commencement of uncontrolled flow access.

- (b) *effective available water* is equal to the amount calculated using the formula—

$$(C + D) / E$$

where—

*C* equals the volume of water in all regulated river (general security) access licence A sub-accounts resulting from adjustments under clause 45 (8),

*D* equals the sum of allocations credited to all regulated river (general security) access licence A sub-accounts in that water year from available water determinations, and

*E* equals the sum of the share components of all regulated river (general security) access licences in the water source.

- (4) (Repealed)
- (5) Access licence holders must supply Water NSW with meter readings taken immediately prior to and after the taking of uncontrolled flow within 7 days of ceasing to take uncontrolled flows.

#### **49 Taking of water under supplementary water access licences**

- (1) An order under section 70 of the Act must be made in accordance with the provisions of this clause.
- (2) An order under section 70 may authorise the taking of water under a supplementary water access licence in accordance with the following rules—
  - (a) the taking of water under supplementary water access licences should, as far as possible, be managed to evenly share access opportunity between all supplementary water access licence holders,
  - (b) the maximum volume of water that may be taken under the supplementary water access licences during each period of time to which an announcement applies may be expressed as a percentage of the supplementary water account limit specified on the water allocation account statement,
  - (c) taking of water under the supplementary water access licences should only be permitted when flows in the Belubula River at the Helensholme gauge (412033) are equal to or greater than 20 ML/day.

### **Part 10 Access licence dealing rules**

#### **Notes.**

- 1 Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2 At the commencement of this Plan the [Access Licence Dealing Principles Order 2004](#) applies. The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided by section 71Z (3) of the Act.
- 3 This Part may be amended if individual daily extraction components are imposed on access licences in the water source.

#### **50 General**

The access licence dealing rules established in this Part apply to all access licence dealings in this water source.

#### **Notes.**

- 1 Access licence dealings in this water source are subject to the provisions of the Act, the regulations, the access licence dealing principles and the access licence dealing rules established in this Part.
- 2 The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.

#### **51 Conversion of access licence to new category**

Dealings under section 71O of the Act are prohibited.

#### **52 Amendment of share component dealings (change of water source)**

Dealings under section 71R of the Act are prohibited.

### 52A Assignment of rights dealings

Dealings under section 71Q of the Act between different water sources are prohibited.

### 53 Assignment of water allocations dealings

A dealing under section 71T of the Act is prohibited if the dealing involves any of the following—

- (a) an assignment of water allocation to or from an access licence in the water source from or to an access licence in another water source.
- (b) an assignment of water allocation from the B sub-account of a regulated river (general security) access licence to the A sub-account of another regulated river (general security) access licence,
- (c) an assignment of water allocation that would cause the sum of the water allocations in the A sub-account and B sub-account of a regulated river (general security) access licence to exceed 1.1 ML per unit share,
- (d) an assignment of water allocation to or from a supplementary water access licence to or from an access licence of another category,

### 54 Interstate transfer of access licence and assignment of water allocation

- (1) Dealings under section 71U of the Act are prohibited.
- (2) Dealings under section 71V of the Act are prohibited.

### 54A Nomination of water supply works dealings

- (1) A dealing under section 71W of the Act is prohibited if it involves an access licence being amended to nominate a water supply work located in a different water source.
- (2) A dealing under section 71W of the Act is prohibited if it involves the nomination of a water supply work located in a State or Territory other than NSW by an access licence in the water source.
- (3) Dealings under section 71W of the Act is prohibited if it involves the nomination of a water supply work in the water source by an access licence from a State or Territory other than NSW.

## Part 11 Mandatory conditions

**Note.** Mandatory conditions relating to metering equipment and recording information are imposed by the [Water Management \(General\) Regulation 2018](#). Clauses in this Plan that provide for mandatory conditions to be imposed in relation to metering apply only until the commencement of the metering and reporting mandatory conditions that are prescribed in Part 10 and Part 11 of the [Water Management \(General\) Regulation 2018](#).

## Division 1 General

### 55 General

In this Part—

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to one of the addresses listed in Schedule 2 of this Plan or to the email address for enquiries on the Department's website, and

**Note.** As at 1 July 2020, the email address for enquiries on the Department's website is [water.enquiries@dpie.nsw.gov.au](mailto:water.enquiries@dpie.nsw.gov.au)

- (b) a ***metered water supply work with a data logger*** means a water supply work with a data logger and a meter that complies with the Australian Standard AS 4747, *Meters for non-urban water supply*, as may be updated or replaced from time to time, and

**Note.** The definition of ***metered water supply work with a data logger*** does not include all water supply works that are metered or that have a data logger. The water supply work must meet the parameters of this definition for the water supply work to be a metered water supply work with a data logger.

- (c) if the holder of a water supply work approval is the same as the holder of the access licence under which water is proposed to be taken, then it is not necessary to maintain two separate Logbooks and all the required information can be kept in one Logbook.

**Note.** **Logbook** is defined in the Dictionary.

## Division 2 Access licences

**Note.** This Division is made in accordance with sections 17 (c), 20 and 66 of the Act.

### 56 Mandatory conditions on access licences

- (1) Access licences in the water source must have mandatory conditions to give effect to the following—
- (a) the relevant water allocation account management rules specified in Division 1 of Part 9 of this Plan,
  - (b) water must not be taken under an access licence otherwise than in compliance with the conditions applying to the water supply work approval for the water supply work through which water is to be taken,
  - (c) the holder of the access licence must notify the Minister, in writing, immediately upon becoming aware of a breach of any condition of the access licence,
  - (d) any other condition required to implement the provisions of this Plan.
- (2) Access licences in the water source, excluding access licences that nominate only metered water supply works with a data logger, must have mandatory conditions to give effect to the following—
- (a) the holder of the access licence must keep a Logbook,
  - (b) the holder of the access licence must record the following in the Logbook—
    - (i) each date and period of time during which water was taken under the access licence,
    - (ii) the volume of water taken on that date,
    - (iii) the water supply work approval number of the water supply work used to take the water on that date,
    - (iv) the purpose or purposes for which the water was taken on that date, and
    - (v) any other information required to be recorded in the Logbook under the rules of this Plan,
  - (c) the holder of the access licence must produce the Logbook to the Minister for inspection,

when requested,

- (d) the holder of the access licence must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of an access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements set out in subclause (2).
- (4) All access licences, except supplementary water access licences, shall have a mandatory condition that only allows the taking of water, other than from uncontrolled flows, if it has been ordered in accordance with procedures established by the Minister.
- (5) All regulated river (high security) access licences must have mandatory conditions to give effect to the rules in clause 47.
- (6) All regulated river (general security) access licences must have mandatory conditions to give effect to the rules in clauses 45 and 48.
- (7) All supplementary water access licences must have mandatory conditions to give effect to the rules in clause 49.
- (8) All access licences of the subcategory “Aboriginal cultural” must have a mandatory condition that specifies that water must only be taken under the access licence by Aboriginal persons or Aboriginal communities for personal, domestic or communal purposes, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.
- (9) Subclauses (2) and (3) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to the water source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

**Notes.**

1 Mandatory metering equipment condition is defined in clause 228 of the *Water Management (General) Regulation 2018*.

2 Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to new works required to have a meter from 1 April 2019, and to other access licences and approvals in the water source from 1 December 2022.

## Division 3 Water supply work approvals

**Note.** This Division is made in accordance with sections 17 (c) and 100 of the Act.

### 57 General conditions

- (1) Water supply work approvals for water supply works must have mandatory conditions to give effect to the following—
  - (a) the water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in Division 2 of Part 9 of this Plan,
  - (b) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements—
    - (i) the metering equipment must accurately measure and record the flow of all water taken

through the water supply work,

- (ii) the metering equipment must comply with Australian Standard AS 4747, *Meters for non-urban water supply*, as may be updated or replaced from time to time,
- (iii) the metering equipment must be operated and maintained in a proper and efficient manner at all times,
- (iv) the metering equipment must be sited and installed at a place in the pipe, channel or conduit between the water source and the first discharge outlet. There must be no flow of water into or out of the pipe, channel or conduit between the water source and the metering equipment, and
- (v) any other requirements as to type, standard or other criteria for the metering equipment specified by the Minister by notice in writing,

**Note.** The Minister may also direct a landholder or person to install, replace or to properly maintain metering equipment under section 326 of the Act.

- (c) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned in accordance with any direction from the Minister (the Minister may direct that any such water supply work need not be decommissioned),
  - (d) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned, and
  - (e) the holder of the water supply work approval must notify the Minister in writing immediately upon becoming aware of a breach of any condition of the approval, and
  - (f) any other conditions required to implement the provisions of this Plan.
- (2) Water supply work approvals for water supply works in the water source, excluding a water supply work that is a metered water supply work with a data logger, must have mandatory conditions to give effect to the following—
- (a) the holder of a water supply work approval must keep a Logbook,
  - (b) the holder of a water supply work approval must record the following in the Logbook—
    - (i) each date and period of time during which water was taken using the water supply work,
    - (ii) the volume of water taken on that date,
    - (iii) the number of the access licence under which water was taken on that date, or, if water was taken under some other authority (such as basic landholder rights), the authority under which water was taken,
    - (iv) the purpose or purposes for which the water was taken on that date,
    - (v) details of any cropping carried out using the water taken through the water supply work including the type of crop, area cropped and dates of planting and harvesting,
    - (vi) where metering equipment has been installed for use in connection with the water supply work, the meter reading before water is taken,
    - (vii) where metering equipment has not been installed for use in connection with the water

supply work, details of all pumping activities for the water supply work including pump running hours, pump power usage or pump fuel usage, pump start and stop times and pump capacity per unit of time, and

- (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
  - (c) the holder of a water supply work approval must produce the Logbook to the Minister for inspection when requested, and
  - (d) the holder of a water supply work approval must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of a water supply work approval for a metered water supply work with a data logger to keep a Logbook in accordance with any requirements under subclause (2).
- (4) Subclauses (1)–(3) do not apply to water supply work approvals held by WaterNSW.
- (5) Water supply work approvals held by WaterNSW must have mandatory conditions to give effect to the System Operation Rules in Part 6 of this Plan and clauses 39 (3), 40 (3) and 41 (3).
- (6) Subclauses (1) (b), (2) and (3) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to the water source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

**Note.** Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to new works required to have a meter from 1 April 2019, and to other access licences and approvals in the water source from 1 December 2022.

## Part 12 Amendment of this Plan

### 58 General

- (1) Amendments specified throughout this Plan and in this Part are amendments authorised by this Plan.
- (2) An amendment authorised by this Plan is taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.
- (3) An amendment authorised by this Plan which results in a variation of the bulk access regime is an amendment authorised by this Plan for the purposes of sections 87 (2) (c) and 87AA of the Act.

### 59 Part 1

Part 1 may be amended to do any of the following—

- (a) add a river or section of river to the water source or remove a river or section of river from the water source,
- (b) (repealed).

### 59A Part 6

Part 6 may be amended to establish alternate environmental release rules in combination with alternate daily access rules.

**60 Part 8**

Part 8 may be amended to include additional categories of specific purpose access licence.

**61 Part 9**

Part 9 may be amended to establish alternate daily access rules in combination with alternate environmental release rules.

**62 Part 10**

Part 10 may be amended to—

- (a) allow dealings under section 71R of the Act from regulated river (general security) access licences with share components that nominate the Lachlan Regulated River Water Source as defined in the *Water Sharing Plan for the Lachlan Regulated River Water Source 2020* to regulated river (general security) access licences with share components that nominate the Belubula Regulated River Water Source, provided the *Water Sharing Plan for the Lachlan Regulated River Water Source 2020* has been amended to permit dealings under 71R from the Belubula Regulated River Water Source, subject to total share components of all access licences in the Belubula Regulated River Water Source not exceeding 27,219 ML, and
- (b) provide for the conversion of regulated river (high security) licences with share components that specify the water source to access licences with share components that specify connected upstream unregulated river water sources.

**63 Part 11**

Part 11 of this Plan may be amended to change the rules in relation to record keeping including amendments in relation to requirements for Logbooks.

**64 Dictionary**

The Dictionary may be amended to add, modify or remove a definition.

**65 Schedule 1**

Schedule 1 may be amended to add or remove an access licence.

**66 Other**

- (1) This Plan may be amended to provide rules for any of the following—
  - (a) (repealed),
  - (b) the shepherding of water,  
**Note.** *Shepherding* is defined in the Dictionary.
  - (c) any new category of access licence established for the purpose of urban stormwater harvesting,
  - (d) the interception of water before it reaches a stream or aquifer by plantations or other means.
- (2) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.



- (3) This Plan may be amended to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth.
- (4) This Plan may be amended to enable a water resource plan to be accredited under the *Water Act 2007* (Cth).
- (5) This Plan may be amended after year five of this Plan to provide rules for the protection of water dependent Aboriginal cultural assets to do any of the following—
  - (a) identify water dependent Aboriginal cultural assets in a Schedule to this Plan,
  - (b) amend the access rules to protect water dependent Aboriginal cultural assets,
  - (c) restrict the granting and amending of water supply work approvals to protect water dependent Aboriginal cultural assets, or
  - (d) amend the dealing rules to protect water dependent Aboriginal cultural assets.
- (6) Any amendment under subclause (5) will take into account the socio-economic impacts of the proposed change and the environmental water requirements of the water source.
- (7) Before making an amendment pursuant to subclause (5) the Minister should consult with relevant Government agencies and stakeholders.
- (8) Division 3 of Part 7 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limits for the water source, the Lachlan Regulated River Water Source and the Lachlan Unregulated River Water Sources.
- (9) This Plan may be amended to facilitate total extractions reaching the long-term average annual extraction limit or long-term average annual sustainable diversion limit should an assessment of compliance with those limits made under Part 6 show that total extractions are in the Minister's opinion significantly less than those limits over the long term.

## Dictionary

**Note.** Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations have the same meaning in this Plan.

**Aboriginal person** has the same meaning as under section 4 of the *Aboriginal Land Rights Act 1983*.

**annual actual take** has the same meaning as it has in section 6.10 of the Basin Plan.

**annual permitted take** has the same meaning as it has in section 6.10 of the Basin Plan.

**baseline diversion limit** has the same meaning as it has in section 1.07 of the Basin Plan.

**Basin Plan** means the *Basin Plan 2012* made under section 44(3)(b)(i) of the *Water Act 2007* of the Commonwealth.

**flow regimes** are the collected magnitudes, durations, frequency and patterns of natural flows that characterise a given river or water source.

**Lachlan surface water SDL resource unit** has the same meaning as provided for in section 6.02 of the Basin Plan.

**Logbook**, in relation to an access licence or water supply work approval, means a written record, kept in hard copy or electronic form, which accurately records all information required to be kept in relation to the access licence or water supply work approval under the rules of this Plan.

***Murray-Darling Basin Agreement*** means the Murray-Darling Basin Agreement as set out in Schedule 1 of the *Water Act 2007* of the Commonwealth (as in force from time to time, unless the context otherwise provides).

***NSW Environmental Water Manager*** means the NSW Government department or agency whose responsibility it is to manage licensed environmental water that is held by the NSW Government.

**Note.** As at the commencement of this Plan, this is the NSW Department of Planning and Environment - Office of Environment and Heritage (OEH).

***operator*** means the operator of the water supply system.

**Note.** As at 1 July 2019, this is WaterNSW.

***plantation forestry*** means a commercial plantation as defined in section 1.07 of the Basin Plan.

***reserves*** means the volumes of water put aside in a water storage to provide for future water requirements.

***SDL adjustment amount*** has the same meaning as it has in section 1.07 of the Basin Plan.

***shepherding*** means the delivery of a calculated volume of water that was created by the non-activation/reduced extraction at a nominated licence location to a more downstream location, after consideration of losses, where it will be made available for extraction or use for the environment.

***take limit***—see subclause 45(5).

***target ecological populations*** are communities of one or more species that are monitored to evaluate the success of targeted objectives for the environment. Populations must be easily monitored (i.e. not rare or cryptic) and may be linked to conservation or other environmental priorities.

***transmission losses*** are any loss of water volume, through natural influences such as evaporation or seepage, which occurs as water travels down a river.

***uncontrolled flows*** are flows not able to be captured in an operator managed water storage that are in excess of that needed to meet the following—

- (a) the environmental release provisions in clause 26,
- (b) the requirements for basic landholder rights in the water source,
- (c) access licence water orders and the water required to meet transmission losses associated with those water orders.

***Water Act 1912 entitlement*** has the same meaning as an entitlement has in clause 2 of Schedule 10 to the Act.

***water storage*** means the water body impounded by a dam, weir or other structure, which is used to regulate and manage river flows in this water source.

***water supply system*** means the water storages and all other infrastructure that can influence water supply controlled by the operator, including regulators and weirs.

***water use development*** means all privately owned water management structures, and all aspects of farm, industry, town or private household development which affect the volumes of water taken from the water source, and the management practices that are applied in relation to them.

***weighted average unit price*** means the total value of all units sold divided by the number of units sold for a monetary value.

## **Schedule 1 Access licences prohibited from taking uncontrolled flows**

### **1 General**

This clause applies to each access licence which replaces a *Water Act 1912* entitlement listed in the

table below.

**Water Act 1912 access licences that are prohibited from taking uncontrolled flows**

70SL051344

70SL046463

70SL090584

70SL024759

70SL038219

70SL025579

70SL045151

70SL031405

## **Schedule 2 Offices**

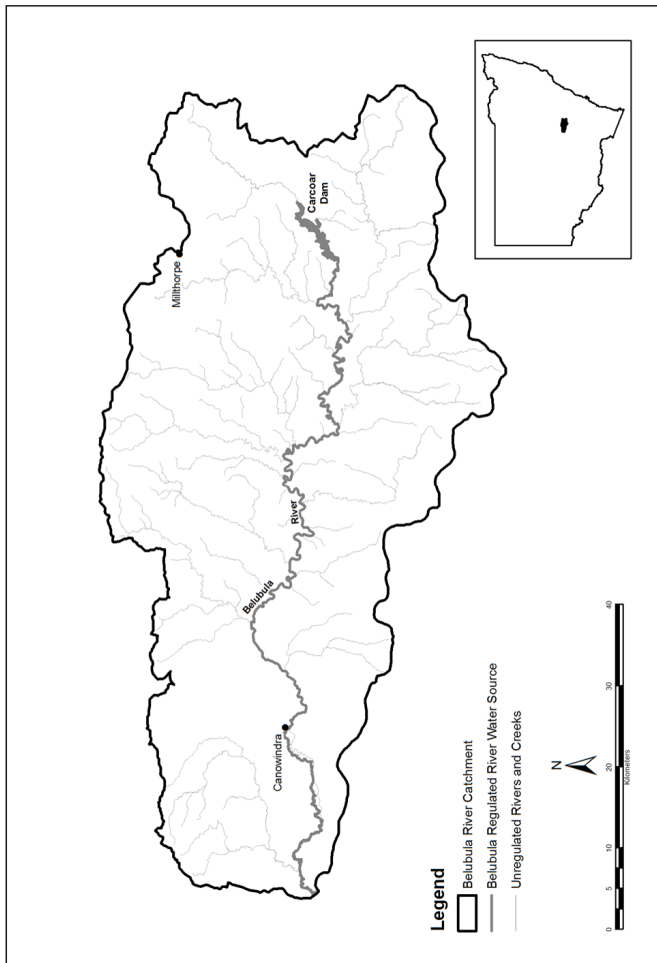
Any notifications that may be required to be made to the Minister, as specified in this Plan can be made to the following offices—

Department of Planning, Industry and Environment - Water  
12 Darcy Street  
PO Box 3720  
PARRAMATTA NSW 2150

Department of Planning, Industry and Environment - Water  
9 Spring St  
PO Box 291  
FORBES NSW 2871

Department of Planning, Industry and Environment - Water  
Level 2  
105 Prince Street PO Box 53  
ORANGE NSW 2800

## Appendix 1 Overview of the Belubula Regulated River Water Source



Appendices 2, 3 (Repealed)