

Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources Amendment Order 2020

under the

Water Management Act 2000

I, Melinda Pavey, Minister for Water, Property and Housing, in pursuance of section 45 (1) of the *Water Management Act 2000*, make the following Order to amend the *Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012*.

Dated 29th June 2020

Melinda Pavey MP

Minister for Water, Property and Housing

Explanatory note

This Order is made under section 45 (1) of the *Water Management Act 2000*. The object of this Order is to amend the *Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012*. The concurrence of the Minister for Energy and Environment was obtained prior to the making of this Order as required under section 45 of the *Water Management Act 2000*.

1 Name of Order

This Order is the *Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources Amendment Order 2020*.

2 Commencement

This Order commences on 1 July 2020.

Schedule 1 Amendment of Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012

[1] Part 1 Introduction

Omit the note. Insert instead –

Notes.

1 Part 12 allows for amendments to be made to this Part.

2 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.

3 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.

4 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.

[2] Clause 1 Name of Plan

Omit “and Alluvial”. Insert instead “River”.

[3] Clause 3 Commencement of this Plan, note

Insert at the end of the note –

3 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 that are consistent with the requirements of the Basin Plan. This Plan was amended in 2020, 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.

4 Basin Plan is defined in the Dictionary.

[4] Clause 4 Application of this Plan

Insert after clause 4 (6) –

Note. This Plan, as amended by the *Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Belubula Valley Alluvial Groundwater Source and Upper Lachlan Alluvial Groundwater Source. The *Water Sharing Plan for the Lachlan Alluvial Groundwater Sources 2020* applies to those water sources.

[5] Clause 4 (1)

Omit the subclause. Insert instead –

(1) This Plan applies to the following water sources known as the Lachlan Unregulated River Water Sources (hereafter these water sources) within the Lachlan Water Management Area:

- (a) Abercrombie River above Wyangala Water Source,
- (b) Belubula River above Carcoar Dam Water Source,
- (c) Belubula Tributaries below Carcoar Dam Water Source,
- (d) Bogandillon and Manna Creeks Water Source,
- (e) Boorowa River and Hovells Creek Water Source,
- (f) Burrangong Creek Water Source,
- (g) Crookwell River Water Source,
- (h) Crowther Creek Water Source,
- (i) Goobang and Billabong Creeks Water Source,
- (j) Goonigal and Kangaroo Creeks Water Source,

- (k) Gunningbland and Yarrabandai Water Source,
- (l) Humbug Creek Water Source,
- (m) Lachlan River above Reids Flat Water Source,
- (n) Lake Forbes and Back Yamma Creek Water Source,
- (o) Mid Lachlan Unregulated Water Source
- (p) Mount Hope Area Water Source,
- (q) Naradhan Area Water Source,
- (r) Ooma Creek and Tributaries Water Source,
- (s) Tyagong Creek Water Source,
- (t) Unregulated Effluent Creeks Water Source,
- (u) Waugoola Creek Water Source,
- (v) Western Bland Creek Water Source, and
- (w) Mandagery Creek Water Source.

Note. The Lachlan Water Management Area was constituted by Ministerial order made under section 11 of the *Water Management Act 2000* and published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.

[6] Clause 4 (2)

Omit the clause. Insert instead –

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP024_Version 3)*, *Water Sharing Plan for the Lachlan Unregulated River Water Sources 2012* (hereafter *the Plan Map*) held by the Department.

Note. The Plan Map is part of this Plan and is available on the NSW Legislation website. An overview of the Plan Map is shown in Appendix 1.

[7] Clause 4 (3)

Omit “the Lachlan Unregulated Water Sources” wherever occurring. Insert instead “these water sources”.

[8] Clause 4 (3)

Omit the word “shown” wherever occurring. Insert instead “as shown”.

[9] Clause 4 (4)

Omit the subclause.

[10] Clause 4 (5)

Omit the subclause. Insert instead –

- (5) These water sources do not include water:
- (a) contained in the Lachlan Regulated River Water Source to which the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* applies,
 - (b) contained in the Belubula Regulated River Water Source to which the *Water Sharing Plan for the Belubula Regulated River Water Source 2012* applies.

[11] Clause 5 Management zones

Omit subclause (1).

[12] Clause 5, (3)

Omit the subclause. Insert instead –

The management zones in subclause (2) are shown on the Plan Map.
Note. Management zone is defined in the Dictionary.

[13] **Clause 6 Extraction management units for these water sources**

Omit the clause.

[14] **Clause 8 Interpretation**

Insert after clause 8 (4) –

(4A) The Plan Map forms part of this Plan.

(4B) A number in brackets following the name of a gauge is the gauge number.

[15] **Part 2**

Omit the Part. Insert instead –

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.

8A Acknowledgment

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.

9 Vision statement

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

- (a) the health and enhancement of these water sources and their 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.

10 Environmental objectives

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

Note. The ecological condition of these water sources will be assessed by reference to the condition of high ecological value aquatic ecosystems, target species, communities, populations and key ecosystem functions as defined in the MER plan for these water sources. Water-dependent ecosystems in these water sources include instream, riparian and floodplain ecosystems.

- (2) The targeted environmental objective of this Plan is to protect, and contribute to the enhancement of, the following over the term of this Plan:
 - (a) the recorded distribution or extent, and population structure, of target ecological populations,

Notes.

1 Target ecological populations is defined in the Dictionary.

2 Target ecological populations in these water sources may include known or predicted populations of the following:

- (a) native fish including eel-tailed catfish, Murray cod, southern pygmy perch, Macquarie perch and olive perchlet,
 - (b) native vegetation including river red gum woodland and black box-coolibah communities,
 - (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds, native vegetation and low flow macroinvertebrate communities in water sources that are susceptible to increased frequency and duration of low flows and drying.
- 3 Significant wetlands in these water sources, and the associated ecological communities such as waterbirds and lignum shrublands, are primarily managed by the NSW Environmental Water Manager according to the rules of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*. The targeted objectives, management and monitoring activities for these assets and communities are provided in the MER plan for these water sources.
- 4 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.
- (b) 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 these water sources include fish movement across significant barriers, as identified by NSW Department of Primary Industries (Fisheries) and described in the MER plan for these water sources.
- 3 Connectivity may be within or between these water sources or between these water sources and other water sources.
- (c) water quality within target ranges for these water sources to support water-dependent ecosystems and ecosystem functions.

Note. Water quality target ranges for these water sources are defined in the Water Quality Management Plan for the Lachlan Water Resource Plan Area SW10 and the NSW State Water Quality Assessment and Monitoring Plan.

- (3) The strategies for reaching the targeted environmental objective of this Plan are as follows:

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

Note. Part 6 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 portion of flows to partially mitigate alterations to natural flow regimes in these water sources,

Notes.

- 1 Flow regimes is defined in the Dictionary.
- 2 The provisions in Division 2 of Part 8 of this Plan establish flow classes that manage the take of water.
- (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,

Notes.

- 1 In-river pool and off-river pool are defined in the Dictionary.

- 2 The provisions in clause 47 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity.
- (d) restrict or prevent water supply work approvals on third order or higher streams,

Notes.

- 1 The provisions in Part 9 of this Plan prevent the granting or amendment of a water supply work approval for an in-river dam on a third order or higher stream in the water sources listed in clause 53 (1A).
- 2 References in this Plan to a third order or higher stream relate to the stream order defined by the Strahler stream ordering method. The Strahler stream ordering method is as described in Schedule 2 to the *Water Management (General) Regulation 2018*.
- (e) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources and other connected water sources including the Lachlan Regulated River Water Source.

Note. The provisions in clause 46 of this Plan ensure that very low flows are protected from extraction.

- (4) The performance indicator used to measure the success of the strategies for reaching 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 reaching the targeted environmental objective 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.
- (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 in subclause (3) 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 these water sources during the term of this Plan have affected progress toward achieving the environmental objectives.

Note. External influences may include climate trends, land use patterns, decisions made by the NSW Environmental Water Manager and other factors.

11 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 maintain, and where possible improve, 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,

- (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows:
- (a) provide for trade of water allocations and share components subject to environmental constraints.
- Note.** The provisions in Part 10 of this Plan permit a variety of dealings within environmental constraints, including assignment of rights under access licences, assignment of water allocations between access licences, and the ability to move the share component of an access licence from one location to another.
- (b) provide a stable and predictable framework for sharing water among water users,
- Note.** The compliance with extraction and diversion limit provisions in Division 4 of Part 6 of this Plan and the flow class and access provisions in Division 2 of Part 8 of this Plan provide certainty in how water access will be shared between individual access licence holders and different categories of access licences.
- (c) provide flexibility of access to water,
- Note.** The individual account management provisions in clause 42 of this Plan, including the limit on the volume of water that can be taken in any water year or over three consecutive water years and the amount of water that may be carried over from one water year to the next, 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.
- Note.** Part 6 of this Plan manages the extraction of water within the long-term average annual extraction limits and the long-term average sustainable diversion limits.
- (4) The performance indicator used to measure the success of the strategies for reaching 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 reaching 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,
 - (b) the economic benefits of water trading 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 adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH 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 extent to which the strategies in subclause (3) support achievement of the economic objectives,
- (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress toward achieving the economic objectives.

Note. External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances, climate or changes in policy or regulation.

12 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 reaching the targeted Aboriginal cultural objectives of this Plan are as follows:

- (a) manage access to water consistently with the exercise of native title rights,
- (b) provide for water associated with Aboriginal cultural values and uses,

Note. The provisions in Part 7 of this Plan 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 portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
- (d) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,

Note. The provisions in clause 47 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity, thereby contributing to the protection of native fish populations, swimming and recreational areas and riparian vegetation.

- (e) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.

Note. The provisions in clause 46 and 47 of this Plan ensure that a portion of natural flows are protected from extraction.

(4) The performance indicator used to measure the success of the strategies for reaching 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 the success of the strategies for reaching 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 capable of being exercised, consistently 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 this 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 values and uses 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.

Note. External influences may include trends in Aboriginal cultural activity, urban, agricultural and industrial development, climate or changes in policy or regulation.

12A 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, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching 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,
 - (b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,
 - (d) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective 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 objectives.
- (5) The performance indicators used to measure the success of the strategies for reaching 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 water 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 extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress toward achieving the social and cultural objectives.

Note. External influences may include trends in urban, agricultural and industrial development, social or cultural behaviour, climate, or changes in policy or regulation.

[16] Clause 13 Bulk access regime

Omit “Division 1 of” from clause 13 (2) (a).

[17] Clause 13 (2) (b)

Omit “determinations to be made contained in Division 2 of Part 6 of this Plan”. Insert instead “determinations are to be made contained in Part 6 of this Plan”.

[18] Clause 13 (2) (d)

Omit the paragraph. Insert instead –

- (d) 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 average annual extraction against the long-term average annual extraction limit and long-term average sustainable diversion limit contained in Part 6 of this Plan,

[19] Clause 14

Omit the clause. Insert instead –

14 Climatic variability

This Plan recognises the effects of climatic variability on river flow in these water sources by having provisions that:

- (a) manage the sharing of water within the limits of water availability on a long-term average annual basis and the 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 and long-term average sustainable diversion limit, contained in Part 6 of this Plan, and
- (b) manage the sharing of water in specified water sources on a daily basis, contained in Division 2 of Part 8 of this Plan.

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.

[20] **Part 4 Planned environmental water provisions**

Omit the note after the Part heading. Insert instead –

Note. This Part is made in accordance with section 8 of the Act.

[21] **Clause 16**

Omit the clause. Insert instead –

16 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water in these water sources in the following ways:

- (a) by reference to the commitment of the physical presence of water in the water source,
- (b) by reference to the long-term average annual commitment of water as planned environmental water,
- (c) by reference to 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.

[22] **Clause 17**

Omit the clause. Insert instead –

17 Establishment and maintenance of planned environmental water

(1) This Plan establishes planned environmental water in these water sources as follows:

- (a) the physical presence of water resulting from the access rules specified in Division 2 of Part 8 of this Plan,

Note. The rules in Division 2 of Part 8 of this Plan set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.

- (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 long-term average sustainable diversion limit as specified in Part 6,
- (c) the water remaining after water has been taken under basic landholder rights and access licences and any other rights under the Act in accordance with the provisions in Parts 6 and 8 of this Plan.

(2) The planned environmental water established under subclause (1) (a) is maintained by the rules specified in Division 2 of Part 8 of this Plan.

(3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6 of this Plan.

(4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Parts 6 and 8 of this Plan.

Note. The provisions in Part 6 of this Plan ensure that there will be water remaining in these water sources over the long-term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 6 provide for a reduction in available water determinations when the long-term average annual extraction limit and the long-term average sustainable diversion limit have been assessed to have been exceeded.

[23] **Clause 18 Application**

Omit “Division 1 of” from clause 18 (3).

[24] **Clause 18 (3), note**

Omit “granting”. Insert instead “grant”.

[25] **Clause 19 Domestic and stock rights**

Omit “10,564”. Insert instead “4,248”.

[26] **Clause 19 (d)**
Omit the paragraph.

[27] **Clause 19 (v)**
Omit the paragraph.

[28] **Clause 20**
Omit the clause. Insert instead –

20 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) the native title determination for the Barkandji Traditional Owners #8 (Parts A and B, National Native Title Tribunal references NCD2015/001 and NCD2017/001), and
- (a) any other determination of native title, and
- (b) any indigenous land use agreement.

Notes.

- 1 A map of the native title determination area can be viewed by searching the National Native Title Tribunal website at www.nntt.gov.au.
- 2 This Plan may be amended if there is an additional or change to a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 This Plan may be amended if consultation with native title holders identifies more specific requirements for water to satisfy native title rights.
- 4 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

[29] **Clause 21 Harvestable rights**
Omit “requirement”. Insert instead “requirements”.

[30] **Clause 22 Share components of domestic and stock access licences**
Omit “2,040”. Insert instead “792”.

[31] **Clause 22 (d)**
Omit the paragraph.

[32] **Clause 22 (v)**
Omit the paragraph.

[33] **Clause 22 (x)**
Insert “and” at the end of the paragraph.

[34] **Clause 23 Share components of local water utility access licences**
Omit “13,721”. Insert instead “5,923”.

[35] **Clause 23 (j)**
Omit the paragraph.

[36] **Clause 23 (k)**
Insert “and” at the end of the paragraph.

[37] **Clause 24 Share components of unregulated river access licences**

Insert “and” at the end of paragraph (v).

[38] **Clause 25 Share components of aquifer access licences**
Omit the clause.

[39] **Clause 26 Share components of aquifer (high security) access licences**
Omit the clause.

[40] **Part 6**
Omit the Part. Insert instead –

Part 6 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 long-term limits on extraction:

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

Division 1 Calculations under this Part

27 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 28,
 - (b) the annual extraction under clause 29,
 - (c) the annual permitted take under clause 32,
 - (d) the annual actual take under clause 32.

Note. Annual permitted take and annual actual take are defined in the Dictionary.
- (2) The calculations by the Minister to which this clause applies must:
 - (a) exclude the following:
 - (i) allocations assigned from an access licence in one of these water sources to an access licence in a water source other than these water sources, under section 71T of the Act,
 - (ii) in relation to annual extraction under clause 31 only, water committed as licensed environmental water under section 8F of the Act, and
 - (b) include allocations assigned to an access licence in one of these water sources from an access licence in a water source other than these water sources, under section 71T of the Act.
- (3) The calculation by the Minister of the long-term average annual extraction limit under clause 28 must be adjusted by a volume that appropriately reflects the following:
 - (a) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act,
 - (b) any changes to the amount of water committed as licensed environmental water under section 8F of the Act.

Division 2 Long-term average annual extraction limit

28 Calculation of the long-term average annual extraction limit

- (1) The long-term average annual extraction limit for these water sources is:
 - (a) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the *Water Act 1912* from these water sources, plus
 - (b) the annual water requirements pursuant to basic landholder rights in the following water sources at the commencement of this Plan:
 - (i) Abercrombie River above Wyangala Water Source,
 - (ii) Belubula River above Carcoar Dam Water Source,
 - (iii) Belubula Tributaries below Carcoar Dam Water Source,

- (iv) Bogandillon and Manna Creeks Water Source,
- (v) Boorowa River and Hovells Creek Water Source,
- (vi) Burrangong Creek Water Source,
- (vii) Crookwell River Water Source,
- (viii) Crowther Creek Water Source,
- (ix) Goobang and Billabong Creeks Water Source,
- (x) Goonigal and Kangaroo Creek Water Source,
- (xi) Gunningbland and Yarrabandai Water Source,
- (xii) Humbug Creek Water Source,
- (xiii) Lachlan River above Reids Flat Water Source,
- (xiv) Lake Forbes and Back Yamma Creek Source,
- (xv) Mid Lachlan Unregulated Water Source,
- (xvi) Mount Hope Area Water Source,
- (xvii) Naradhan Area Water Source,
- (xviii) Ooma Creek and Tributaries Water Source,
- (xix) Tyagong Creek Water Source,
- (xx) Unregulated Effluent Creeks Water Source,
- (xxi) Waugoola Creek Water Source, and
- (xxii) Western Bland Creek Water Source, plus
- (c) the annual water requirements pursuant to basic landholder rights from the Mandagery Creek Water Source at the commencement of the *Water Sharing Plan for the Mandagery Creek Water Source 2003*, plus
- (d) the estimated annual take of water from these water sources by plantation forestry that existed on 30 June 2009.

Note. Plantation forestry is defined in the Dictionary.

29 Calculation of annual extraction

Following the end of each water year, the Minister is to calculate the total annual extraction from these water sources based on the following:

- (a) the take of water by basic landholder rights and access licences in that water year,
- (b) the estimated take of water by plantation forestry in that water year.

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

- (1) Following the calculation under clause 29, the Minister is to compare the average of the total annual extraction for these water sources over the preceding three water years against the long-term average annual extraction limit.
- (2) There is non-compliance with a long-term average annual extraction limit if the average of the total annual extraction over the preceding three water years exceeds the long-term average annual extraction limit by 5% or more.

Division 3 Long-term average sustainable diversion limit

Note. Lachlan SDL resource unit is defined in the Dictionary.

31 Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for these water sources is the component of the baseline diversion limit for the Lachlan SDL resource unit as calculated in accordance with Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to these water sources.
- (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 is defined in the Dictionary.

2 The long-term average sustainable diversion limit for the Lachlan SDL resource unit specified in Schedule 2 of the Basin Plan covers extractions from both the Lachlan Regulated River Water Source and the Lachlan Unregulated River Water Sources.

32 Calculation of annual permitted 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 these water sources 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 these water sources.

Notes.

1 Under the Basin Plan 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 Consumptive use and take are defined in section 4 of the *Water Act 2007* of the Commonwealth.

33 Assessment of compliance with the long-term average sustainable diversion limit

- (1) Following the calculation under clause 32 after the end of each water year, 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

33A Action following non-compliance

- (1) Subject to subclause (2) to (4), if an assessment under clauses 30 or 33 demonstrates non-compliance with either the long-term average annual extraction limit for these water sources or the long-term average sustainable diversion limit, the Minister is to make available water determinations for unregulated river access licences of less than 1 ML per unit share for the water year after the assessment.
- (2) The Minister may take the action specified in subclause (1) if an assessment under clause 33 would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (3) An action taken in accordance with subclause (1) and (2) is to 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 average annual extraction in these water sources 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) An action taken in accordance with subclause (1) and (2) to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan is to only apply to a water source to the extent to which extractions from the water source:
 - (a) have caused non-compliance with the long-term average sustainable diversion limit, or

- (b) would have caused non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse.

Division 5 Available water determinations

34 General

- (1) Available water determinations for access licences with share components that specify any one of these water sources are to be expressed as either:
- (a) a percentage of the share component for access licences which have share components specified as ML/year, or
 - (b) megalitres per unit share for access licences where share components are specified as a number of unit shares.
- (2) The sum of available water determinations made for any access licence with a share component that specifies one of these water sources must not, in any water year, exceed:
- (a) 100% of the access licence share component for all access licences where share components are specified as ML/year, or
 - (b) 1 megalitre per unit share of the access licence share component for all access licences, where share components are specified as a number of unit shares.
- (3) (Repealed)

35 Available water determinations for domestic and stock access licences

- (1) (Repealed)
- (2) Unless the Minister otherwise determines, 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.

36 Available water determinations for local water utility access licences

- (1) (Repealed)
- (2) Unless the Minister otherwise determines, 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.

37 Available water determinations for unregulated river access licences

- (1) Unless the Minister otherwise determines, at the commencement of each water year, an available water determination of 1 ML per unit of access licence share component or such lower amount that is determined in accordance with clause 33A is to be made for unregulated river access licences.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river access licences that are less than 1 ML per unit of share component where the long-term average annual extraction limit or long-term average sustainable diversion limit has been assessed to have been exceeded.

38, 39 (Repealed)

[41] Part 7 Rules for granting access licences

Omit the notes after the Part heading. Insert instead –

Notes.

- 1 This Part is made in accordance with sections 20 and 61 of the Act.
- 2 Access licences in these water sources are subject to mandatory conditions and may be subject to discretionary conditions.

[42] Clause 40 Specific purpose access licence.

Omit the note after the clause heading. Insert instead –

Note. Section 61 of the Act allows for the granting of specific purpose access licences under the regulations and the relevant water sharing plan.

[43] **Clause 41 Granting of access licences as a result of controlled allocation**

Omit the clause.

[44] **Part 8, Division 1**

Omit the Division. Insert instead –

Division 1 Water allocation account management rules

Note. The Act and the regulations provide for the keeping of water allocation accounts for access licences. The rules in this Division impose further restrictions on the volume of water that may be taken under an access licence over a specified period of time. These limits are in addition to any other limits on access licences for the taking of water. It is an offence under the Act to take water under an access licence for which there is no or insufficient water allocation.

42 Individual access licence account management rules

- (1) The rules in this clause apply to the taking of water under an access licence with a share component that specifies one of these water sources.
- (2) (Repealed)
- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, water taken under an unregulated river access licence must not exceed a volume equal to the lesser of:
 - (a) the sum of:
 - (i) water allocations accrued to the water allocation account for the access licence from available water determinations in those three water years,
 - (ii) the water allocations carried over in the water allocation account for the access licence from the water year prior to those three water years under subclause (5),
 - (iii) the net amount of water allocations assigned to and from the water allocation account for the access licence under section 71T of the Act in those three water years, and
 - (iv) any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act, in those three water years, or
 - (b) the sum of:
 - (i) the share component of the access licence at the beginning of the first of those three water years,
 - (ii) the share component of the access licence at the beginning of the second of those three water years,
 - (iii) the share component of the access licence at the beginning of the third of those three water years,
 - (iv) the net amount of any water allocations assigned to and from the water allocation account for the access licence under section 71T of the Act in those three water years, and
 - (v) any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years.
- (4) In any water year in which this Plan has effect, water taken under a domestic and stock access licence or a local water utility access licence 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) the net amount of any water allocations assigned to and from the water allocation account for the access licence under section 71T of the Act in that water year, plus
- (c) any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
- (5) For an unregulated river access licence, any water allocations remaining in the water allocation account are to be carried over from one water year to the next, up to a maximum of 1 ML per unit share of the access licence share component.
- (6) Water allocations remaining in the water allocation account for a domestic and stock access licence or local water utility access licence cannot be carried over from one water year to the next.

43, 44 (Repealed)

[45] Clause 46 Flow classes

Insert the words “and each management zone specified in Column 2 of Table B” after the words “Column 1 of Table B” in subclause (2).

[46] Clause 46 (5), note

Omit “Appendix 4”. Insert instead “Schedule 3”.

[47] Clause 46, Table B

Omit the words “Year 5 of this Plan to the end of this Plan” wherever occurring. Insert instead “Year 5 to the end of this Plan”.

[48] Clause 47 Access rules for the taking of surface water

Omit “the Lachlan Unregulated Water Sources”. Insert instead “these water sources” wherever occurring.

[49] Clause 47 (1) (iii)

Insert after clause 47 (1) (iii) –

Note. Approved EP&A Act development is defined in the Dictionary.

[50] Clause 47 (4), (11) and (13) (b)

Omit “specified”. Insert instead “imposed”.

[51] Clause 47 (13) (a)

Insert the word “imposed” after the words “specified in the conditions” in paragraph (a).

[52] Clause 47 (15) (d)

Omit the paragraph.

[53] Clause 48 Access rules for unregulated river access licences on Booberoi Creek

Omit clause 48 (2) (c) – (h). Insert instead –

- (c) replenishment flows have been provided in that water year under clause 30 (1) of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*,
- (d) a visible flow is being maintained in the Lachlan River at Geramy in accordance with clause 31 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*,
- (e) all orders for water in the Lachlan Regulated River Water Source as defined in the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* downstream of the Booberoi Creek off-take have been met,
- (f) Lake Cargelligo and Lake Brewster storages are at full capacity,

- (g) flows are not occurring in the Lachlan Regulated River Water Source that are required to satisfy the provisions of clause 26 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*, and
- (h) releases are not being made from the environmental water allowance held in Wyangala Dam water storage or the water quality allowance established by clauses 27 and 28 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*.

[54] Clause 48 (3) (e)

Omit the paragraph. Insert instead –

- (e) water must not be taken under an access licence listed in Clause 1 of Schedule 1 from an in-river dam pool created by a structure authorised by a water supply work approval when flows or storage level in that dam are at or less than the cease to take conditions that was imposed on the *Water Act 1912* entitlement that the access licence replaces,

[55] Clause 49 Access rules for unregulated river access licences in the Unregulated Effluent Creeks Water Source.

Omit clause 49 (2) (c) – (g). Insert instead –

- (c) replenishment flows have been provided in that water year under clause 30 (1) of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*,
- (d) a visible flow is being maintained in the Lachlan River at Geramy in accordance with clause 31 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*,
- (e) all orders for water in the Lachlan Regulated River Water Source as defined in the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* downstream of the junction of the creek on which the water supply work nominated by that access licence is located and the Lachlan Regulated River Water Source have been met,
- (f) flows are not occurring in the Lachlan Regulated River Water Source that are required to satisfy the provisions of clause 26 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*, and
- (g) releases are not being made from the environmental water allowance held in Wyangala Dam water storage, the environmental contingency allowance held in Lake Brewster or the water quality allowance established by clauses 27 and 28 of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*.

[56] Clause 49 (3) (d) – (g)

Omit the paragraphs. Insert instead –

- (d) water must not be taken under an access licence listed in Clause 2 of Schedule 1 from an in-river dam pool created by a structure authorised by a water supply work approval when flows or storage level in that dam are at or less than the cease to take conditions that was imposed on the *Water Act 1912* entitlement that the access licence replaces,
- (e) water must not be taken from an in-river dam pool unless the in-river dam is passing such flows as specified on the water supply work approval for the in-river dam,
- (f) the flows specified on the water supply work approval for the in-river dam referred to in paragraph (f) are:
 - (i) the flows that were specified in the conditions on the *Water Act 1912* entitlement that the approval replaces, or
 - (ii) where no flows were specified, the flows determined by the Minister.

[57] Clause 49 (4) (b)

Omit the word ‘and’ at the end of the paragraph.

[58] Part 9 Rules for water supply works approvals

Remove the words “that take surface water” from the heading to Division 1.

[59] **Clause 52**

Omit the clause. Insert instead –

52 General

The rules in this Part apply to water supply work approvals for water supply works authorised to take water from these water sources.

[60] **Clause 53 Granting or amending water supply work approvals**

Omit subclause (1).

[61] **Clause 53 (1A)**

Insert the word “approval” after the words “A water supply work”.

[62] **Clause 53 (2), note**

Omit the words “clause 69 (1) (e) and (f)”. Insert instead “clause 71 (1) (b) and (e)”.

[63] **Clause 53 (4)**

Omit the words “Lachlan Unregulated Water Sources”. Insert instead “these water sources”.

[64] **Part 9, Divisions 2-3**

Omit the Divisions.

[65] **Clause 63 (1) (d)**

Omit the word “nominate”. Insert instead “nominates”.

[66] **Clause 63 (1) (j)**

Omit the paragraph. Insert instead –

- (j) an access licence that does not nominate a water supply work located on an off-river pool within the Unregulated Effluent Creeks Water Source to an access licence that nominates a water supply work on an off-river pool within the Unregulated Effluent Creeks Water Source,

[67] **Clause 63 (1) (e)**

Omit the paragraph.

[68] **Clause 63 (2) (a)**

Omit the paragraph.

[69] **Clause 63 (2) (b)**

Omit the paragraph. Insert instead –

- (b) to an access licence with a share component that specifies any water source other than the Western Bland Creek Water Source, or

[70] **Clause 64 Amendment of share component dealings (change of water source)**

Omit clause 64 (1) (a) – (d). Insert instead –

- (a) the granting of a new access licence with a share component that specifies a water source other than the Western Bland Creek Water Source,
- (b) the granting of a new access licence with a share component that specifies the Western Bland Creek Water Source if the share component of the cancelled access licence specifies any water source other than the Burrangong Creek Water Source or the Tyagong Creek Water Source.

- [71] **Clause 65 Amendment of extraction component dealings**
Omit the clause.
- [72] **Clause 66 Assignment of water allocation dealings**
Omit paragraph 66 (1) (e).
- [73] **Clause 66 (2) (a)**
Omit the paragraph.
- [74] **Clause 66 (2) (b)**
Omit the paragraph. Insert instead –
(b) to an access licence in a water source other than the Western Bland Creek Water Source, or
- [75] **Clause 67 Interstate transfer of access licences and assignment of water allocation**
Omit the word “licence”. Insert instead “licences”.
- [76] **Clause 68 Nomination of water supply works dealings**
Omit subclause (1) (a) and subclause (3).
- [77] **Clause 69 General**
Omit paragraph (a). Insert instead –
(a) a requirement to notify the Minister in writing will only be satisfied by making a notification in writing to the address listed in Schedule 3 of this Plan or to the email address for enquiries on the Department’s website,

Note. At the commencement of this Plan, the email address for enquiries on the Department’s website is water.enquiries@dpi.nsw.gov.au.

- [78] **Clause 69 (c)**
Insert the word “person” after the words “is the same”.
- [79] **Clause 70**
Omit the clause. Insert instead –

70 General

- (1) Access licences in these water sources must have mandatory conditions to give effect to the following:
- (a) the relevant water allocation account management rules specified in Division 1 of Part 8 of this Plan,
 - (b) the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan,
 - (c) the holder of an access licence upon becoming aware of a breach of any condition of the licence must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm this notification in writing within seven days of becoming aware of the breach,
 - (d) any other condition required to implement the provisions of this Plan.
- (2) Access licences in these water sources, 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 start and end 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,
 - (v) (Repealed)
 - (vi) for unregulated river access licences with share components that specify one of these water sources, the volume of water taken, assigned under section 71T of the Act or otherwise withdrawn from a water allocation account in any three consecutive water years after the first water year of this Plan, by comparison to the volume of water permitted to be taken or assigned in those years under clause 42 (3),
 - (vii) for domestic and stock access licences and local water utility access licences with share components that specify one of these water sources, the volume of water taken, assigned under section 71T of the Act or otherwise withdrawn from a water allocation account in a water year by comparison to the volume of water permitted to be taken or assigned in that water year under clause 42 (4), and
 - (viii) 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) If so required by the Minister, the holder of an access licence that nominates only a metered water supply work with a data logger must keep a Logbook in accordance with any requirements of subclause (2).
- (4) If an access licence with a nominated water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the licence.

Note. The *Water Management (General) Regulation 2018* will impose a mandatory condition requiring record keeping on access licences and approvals by 1 December 2022.

- (5) Subclauses (2), (3) and (4) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

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

[80] Clause 71

Omit the clause. Insert instead –

71 General

- (1) Water supply work approvals for water supply works in these water sources must have mandatory conditions to give effect to the following:
 - (a) 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 out of the pipe, channel or conduit between the water source and the metering equipment,
- (v) any other requirements as to type, standard or other criteria for the metering equipment specified in the notice,

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

- (b) if a water supply work is to no longer be used permanently, then the approval holder of that work must provide the Minister with notice in writing that the approval holder intends to decommission the water supply work, at least 90 days prior to the date of commencement of decommissioning,
- (c) upon receiving notice of the intention to decommission from the approval holder under paragraph (b), the Minister may, by notice in writing, require the water supply work not to be decommissioned, or that the water supply work be decommissioned in accordance with other requirements. These requirements may be specified by the Minister in a work plan,

Note. If a notice in writing is required from the Minister regarding the decommissioning of a water supply work, this notice will be sent to the approval holder within 60 days of the notice under paragraph (b) being sent.

- (d) if the approval holder receives a notice from the Minister under paragraph (c) the approval holder must proceed with decommissioning the water supply work in accordance with any requirements in that notice,
 - (e) if the approval holder does not receive a notice from the Minister under paragraph (c) within 60 days of providing notice of the intent to decommission under paragraph (b), the approval holder must decommission the water supply work,
 - (f) (repealed)
 - (g) the holder of the water supply work approval upon becoming aware of a breach of any condition of the approval, must:
 - (i) notify the Minister as soon as practicable,
 - (ii) confirm this notification in writing within seven days of becoming aware of the breach,
 - (h) any other conditions required to implement the provisions of this Plan.
- (1A) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (1) (a) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (1B) Subclauses (1) (a) and (1A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources 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 these water sources from 1 December 2022.

- (2) Water supply work approvals for water supply works in these water sources, excluding a water supply work that is a metered water supply work with a data logger or is used for the purpose of taking water under basic landholder rights only, 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 start and end 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).
- (3A) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the approval.
- (3B) Subclauses (2), (3) and (3A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.
- (4) All water supply work approvals must contain mandatory conditions to require that the water supply work must not be used to take water unless, before water is taken, the holder of the water supply work approval confirms that the relevant cease to take conditions do not apply. Where the holder is required to keep a Logbook, the holder must record that confirmation and the means of confirmation (such as visual inspection or internet search) in the Logbook.
- (5) A water supply work approval for runoff harvesting dams and in-river dams must contain a mandatory condition that requires the approval holder to comply with any direction by the Minister to modify or remove the dam to ensure that the capability of the dam to capture water is reduced to reflect any reduction in share components arising from:
- (a) a dealing under section 71Q or 71W of the Act,
 - (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent cancellation of that access licence under section 77A (6) of the Act,

- (c) the amendment of the share component of the access licence by the Minister under section 68A of the Act, or
 - (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act.
- (6) A water supply work approval for a replacement surface water supply work must have mandatory conditions to give effect to the requirements for a replacement surface water supply work specified in clause 53 (4).

[81] Clause 72 Water supply works authorised to take water from the Belubula Valley Alluvial Groundwater Source and the Upper Lachlan Alluvial Groundwater Source
Omit the clause

[82] Clause 74A
Omit the clause. Insert instead –

74A Part 6

- (1) Following the surrender under section 77 of the Act of an access licence and then the cancellation under section 77A (6) of the Act of an access licence in one of these water sources, the Minister may amend clause 28 to vary the long-term average annual extraction limit that applies to these water sources.
- (2) Division 3 of Part 6 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limits for these water sources, the Lachlan Regulated River Water Source and the Belubula Regulated River Water Source.

[83] Clause 75 Part 8
Omit paragraph (d). Insert instead –

- (d) amend clause 47 to specify different access rules for lagoons, lakes, in-river pools or other lentic water bodies,

[84] Clause 75 (k)
Omit the word “(g)”. Insert instead “(h)”.

[85] Clause 76 Part 9
Omit paragraphs (b) – (d). Insert instead –

- (b) amend the definition of a replacement surface water supply work in clause 53 (4).

[86] Clause 76A
Insert after clause 76 –

76A Part 10

The access licence dealing rules may be amended to provide for the conversion of regulated river (high security) access licences that specify regulated river water sources connected to, and downstream of, these water sources to access licences with share components that specify these water sources.

[87] Clause 77
Omit the clause. Insert instead –

77 Part 11

Part 11 may be amended in relation to metering and record keeping including in relation to requirements for Logbooks.

[88] **Clause 79 Schedules**
Omit subclauses (4) – (5).

[89] **Clause 80**
Omit the clause. Insert instead –

80 Other

- (1) This Plan may be amended to provide rules for the following:
 - (a) the management of floodplain harvesting within these water sources,
 - (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 enable a water resource plan to be accredited under the *Water Act 2007* of the Commonwealth.
- (4) 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.
- (5) This Plan may be amended after year five 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,
 - (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) This Plan may be amended to specify different access rules to protect:
 - (a) replenishment flows released pursuant to the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* (or any relevant replacement plan), or
 - (b) environmental flows released pursuant to the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* (or any relevant replacement plan).

[90] **Dictionary**
Omit the following terms –

alluvial sediments, drawdown, escarpment, fractured rock, grazeable area, groundwater dependent ecosystems, Minimum Construction Requirements for Water Bores in Australia and porous rock.

[91] **Dictionary**
Insert the following in alphabetical order –

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.

approved EP&A Act development means:

- (a) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (whether before or after its repeal), or
- (b) State significant development authorised by a development consent under Part 4 of that Act, or
- (c) State significant infrastructure approved under Part 5.1 of that Act.
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.

floodplain harvesting means the collection, extraction or impoundment of water flowing across floodplains, including rainfall runoff and overbank flow excluding the take of water pursuant to any of the following:

- (a) a water access licence other than a floodplain harvesting access licence,
- (b) a basic landholder right,
- (c) an exemption from the need to hold a licence to take water under the Act.

flow regimes means, collectively, the magnitude, duration, frequency and patterns of natural flows that characterise a river or water source.

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

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

target ecological populations means 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.

target ecological processes means processes that support a range of ecological communities, such as connecting flows or flow events that can mobilise nutrients and other water-borne materials within and between water sources. These processes must be easily monitored and measurable.

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

[92] **Dictionary**

In the *individual daily extraction limit (IDEL)*, *management zone* and *total daily extraction limit (TDEL)* definitions, omit the word ‘is’. Insert instead ‘means’.

[93] **Dictionary**

In the *trading zone* definition, omit the words “Appendix 1 of this Plan”. Insert instead “the Plan Map”.

[94] **Schedule 1 Access licences that may take water in accordance with notices issued under clauses 48 and 49**

Omit the word “clauses” from the heading to clause 2 of Schedule 1. Insert instead “clause”.

[95] **Schedule 3 - 5**

Omit the Schedules. Insert instead –

Schedule 3 Office

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

[96] Appendix 1-2 and 4

Omit the Appendixes. Insert instead –

Appendix 1 Overview of the Plan Map

Overview of the Plan Map (WSP024_Version 3) Water Sharing Plan for the Lachlan
Unregulated River Water Sources 2012

