

Water Sharing Plan for the Murray 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 Murray Unregulated and Alluvial Water Sources 2011*.

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 Murray Unregulated and Alluvial Water Sources 2011*. 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 Murray 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 Murray Unregulated and Alluvial Water Sources 2011

[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 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 New South Wales Murray and Lower Darling surface water resource plan area.

4 ***Basin Plan*** is defined in the Dictionary.

[4] Clause 4

Omit the clause. Insert instead –

4 Application of this Plan

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

- (a) Albury Water Source,
- (b) Dora Dora Water Source,
- (c) Hume Water Source,
- (d) Indi Water Source,
- (e) Jingellic Water Source,
- (f) Lower Wangamong Water Source,
- (g) Majors Water Source,
- (h) Mannus Water Source,
- (i) Maragle Water Source,
- (j) Murray Below Mulwala Water Source,
- (k) Ournie Welaregang Water Source,
- (l) Swampy Plain Water Source,
- (m) Tooma Water Source,
- (n) Tumbarumba Water Source, and

- (o) Upper Murray River Water Source.

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

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP045_Version 2), Water Sharing Plan for the Murray Unregulated River Water Sources 2011* (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.

- (3) Subject to subclause (5), these water sources include all water:
- (a) occurring naturally on the surface of the ground within the boundaries of these water sources as shown on the Plan Map, and
 - (b) in rivers, lakes and wetlands within the boundaries of these water sources as shown on the Plan Map.
- (4) (Repealed)
- (5) These water sources do not include water:
- (a) contained in the New South Wales Murray Regulated River Water Source to which the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* (or any relevant replacement plan) applies, or
 - (b) taken in the course of floodplain harvesting under a floodplain harvesting (regulated river) access licence.

Notes.

1 Floodplain harvesting is defined in the Dictionary.

2 This plan, as amended by the *Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Upper Murray Groundwater Source. The *Water Sharing Plan for the Murray Alluvial Groundwater Sources 2020* applies to the Upper Murray Groundwater Source.

[5] Clause 5 Management zones

Omit the note following subparagraphs (1)(a)(i) and (ii).

[6] Clause 5 (2)

Omit the word 'Registered'. Insert instead 'Plan'.

[7] Clause 5 (2), note

Insert at the end of the subclause –

Note. Management zone is defined in the Dictionary.

[8] Clause 8 Interpretation

Insert after subclause (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.

[9] 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 Acknowledgement

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within the Murray 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) the social and cultural benefits to urban and rural communities that result from 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 Macquarie perch, Murray cod, trout cod, flathead galaxias and southern pygmy perch,
- (b) native vegetation including montane peatlands and river red gum,
- (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 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 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 Murray and Lower Darling Water Resource Plan Area SW8 and 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 natural pools, lagoons or lakes when the volume of that water is less than the full containment volume,

Note: The provisions in clause 44 of this Plan restrict the take of water from natural pools, lagoons or lakes when the volume of that water is less than the full containment volume.

(d) restrict or prevent water supply work approvals on third order or higher streams,

Notes.

1 The provisions in Part 9 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 Dora Dora Water Source.

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 with and between these water sources and other connected water sources.

Note. The provisions in clause 43 of this Plan ensure that low and 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 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 water source 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 different categories of access licences.

- (c) provide flexibility of access to water,

Note. The individual account management provisions in clause 40 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 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 any of the following:
 - (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,
 - (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 surface 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 industry 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 natural flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (d) restrict the take of water from natural pools, lagoons or lakes when the volume of that water is less than the full containment volume,
- Note.** The provisions in clause 44 of this Plan restrict the take of water from natural pools, lagoons or lakes when the volume of that water is less than the full containment volume, thereby contributing to the protection of native fish populations, swimming and recreational areas and riparian vegetation.
- (e) reserve a portion of natural 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 clauses 43 and 44 of this Plan ensure that a portion of medium and high 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 water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
 - (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (c) restrict the take of water from natural pools, lagoons or lakes when the volume of that water is less than the full containment volume,
 - (d) reserve a portion of natural 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 objective.
- (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,
 - (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.

[10] Clause 13 Bulk access regime

Omit the words ‘established in this Plan’ from subclause (2).

[11] Clause 13 (2) (a)

Omit “Division 1 of” from the paragraph.

[12] Clause 13 (2) (b)

Omit the words ‘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’.

[13] 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,

[14] 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.

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

Omit the notes. Insert instead –

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

[16] **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 these water sources,
- (b) by reference to the long-term average annual commitment of water as planned environmental water, and
- (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.

[17] **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 limits and long-term sustainable diversion limit as specified in Part 6,
 - (c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the provisions specified 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 limits and the long-term average sustainable diversion limit. The provisions in Part 6 of this Plan provide for a reduction in available water determinations when the long-term average annual extraction limits or the long-term average sustainable diversion limit have been assessed to have been exceeded.

[18] **Clause 18 Application**

Omit “Division 1 of” from subclause (3).

[19] **Clause 19 Domestic and stock rights**
Omit the words “At the commencement of this Plan, the”. Insert instead “The”.

[20] **Clause 19**
Omit “4.2”. Insert instead “3.1”.

[21] **Clause 19 (n) – (p)**
Omit the paragraphs. Insert instead –
(n) 0.2 ML/day in the Tumbarumba Water Source, and
(o) 0.7 ML/day in the Upper Murray River Water Source.

[22] **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) any determination of native title, and
- (b) any indigenous land use agreement.

Notes.

1 No determinations of native title in relation to these water sources have been made in accordance with the *Native Title Act 1993* of the Commonwealth at the commencement of this Plan.

2 The 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.

[23] **Clause 21**
Omit the clause. Insert instead –

21 Harvestable rights

The requirements for water under harvestable rights in these water sources is equal to the total amount of water that owners or occupiers of landholdings are entitled to capture and store, pursuant to a harvestable rights order made under Part 1 of Chapter 3 of the Act.

[24] **Clause 22 Share components of domestic and stock access licences**
Omit the words “at the time of the commencement of this Plan”.

[25] **Clause 22**
Omit the word “will”.

[26] **Clause 22 (n) – (p)**
Omit the paragraphs. Insert instead –

- (n) 53 ML/year the Tumbarumba Water Source, and
- (o) 84 ML/year in the Upper Murray River Water Source.

[27] **Clause 23 Share components of local water utility access licences**
Omit the words “at the time of the commencement of this Plan”.

[28] **Clause 23**
Omit the words “will total 790”. Insert instead “total 639”.

- [29] **Clause 23 (b) – (d)**
Omit the paragraphs. Insert instead –
- (b) 499 ML/year in the Tumbarumba Water Source, and
 - (c) (repealed)
 - (d) 0 ML/year in all other water sources.
- [30] **Clause 24 Share components of unregulated river access licences**
Omit the words “at the time of the commencement of this Plan”.
- [31] **Clause 24**
Omit the word “will”.
- [32] **Clause 25 Share components of aquifer access licences**
Omit the clause.
- [33] **Clause 26 Share components of unregulated river (high flow) access licences**
Omit the words “at the time of the commencement of this Plan”.
- [34] **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 for each extraction management unit,
- (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 limits under clause 28,
 - (b) the annual extraction under clause 29,
 - (c) the annual permitted take under clause 30B,
 - (d) the annual actual take under clause 30B.

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 29 only, water committed as licensed environmental water under section 8F of the Act,
 - (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 limits under clause 28 must be adjusted by a volume that appropriately reflects the following:
 - (a) the share components of water access licences in these 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 limits

28 Calculation of the long-term average annual extraction limits

- (1) This clause establishes a long-term average annual extraction limit for each extraction management unit to which this Plan applies.
- (2) The long-term average annual extraction limit for each extraction management unit is the sum of:
 - (a) the estimated 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 the water sources in the respective extraction management unit, plus
 - (b) the estimated annual water requirements pursuant to basic landholder rights in the respective extraction management unit at the commencement of this Plan, plus
 - (c) the estimated annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 by floodplain harvesting activities for which floodplain harvesting (unregulated river) access licences may be issued in the respective extraction management unit, plus
 - (d) the estimated annual take of water from the respective extraction management unit 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 for each extraction management units to which this Plan applies 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,
- (c) until such time as it is included under paragraph (a), the estimated take of water in the water year by floodplain harvesting activities, for which floodplain harvesting (unregulated river) access licences may be issued in the respective water sources for that extraction management unit.

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

- (1) Following the calculations under clause 29, the Minister is to compare the average of the total annual extraction for each extraction management unit to which this Plan applies over the preceding three water years against the respective 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. New South Wales Murray SDL resource unit is defined in the Dictionary.

30A 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 New South Wales Murray SDL resource unit, 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 New South Wales Murray SDL resource unit specified in Schedule 2 of the Basin Plan covers extractions from both the New South Wales Murray Regulated River Water Source and the Murray Unregulated River Water Sources.

30B 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 each extraction management unit to which this Plan applies 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 and are defined in section 4 of the *Water Act 2007* of the Commonwealth.

30C Assessment of compliance with the long-term average sustainable diversion limit

- (1) Following the calculation under clause 30B 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

31 Action following non-compliance

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 30 or 30C demonstrates non-compliance with either a long-term average annual extraction limit for an extraction management unit or the long-term average sustainable diversion limit, the Minister is to take one or both of the following actions for the water year after the assessment:
 - (a) make available water determinations for unregulated river access licences of less than 1 ML per unit share,
 - (b) make available water determinations for unregulated river (high flow) access licences of less than 1 ML per unit share.
- (2) The Minister may take the action specified in subclause (1) if an assessment under clause 30C 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) or (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 a long-term average annual extraction limit – to return long-term average annual extraction in the extraction management unit to the respective 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) or (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.

32 (Repealed)

Division 5 Available water determinations

33 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 where share components are 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)

34 (Repealed)

35 Available water determinations

Unless the Minister otherwise determines, at the commencement of each water year, the following available water determinations is to be made for access licences with a share component that specifies one of these water sources:

- (a) 100% of the access licence share component for domestic and stock access licences,
- (b) 100% of the access licence share component for local water utility access licences,
- (c) 1 megalitre per unit of share component for unregulated river access licences, and
- (d) 1 megalitre per unit of share component for unregulated river (high flow) access licences, or such lower amount that results from Division 4 of this Part.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river access licences and unregulated river (high flow) 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 for the respective extraction management units have been assessed to have been exceeded.

36 (Repealed)

[35] Part 7

Omit the Part. Insert instead –

Part 7 Rules for granting access licences

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.

37 Specific purpose access licences

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

- (1) Applications may not be made for a specific purpose access licences of the subcategory “Aboriginal cultural” if the share component of the proposed access licence is more than 10 ML/year.
- (2) A specific purpose access licence must not be granted in these water sources unless the Minister is satisfied that the share and extraction component of the access licence is the minimum required to meet the circumstances in which the access licence is proposed to be used.
- (3) An access licence of the subcategory “Aboriginal cultural” may only be granted for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teachings, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

Note. Aboriginal person is defined in the Dictionary.

38 (Repealed)

[36] Part 8, Division 1

Insert the following note –

Note. The Act and the regulations provide for the keeping of water allocation accounts for access licences. The rules in this Division impose further limits on the 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.

[37] Clause 39 General

Omit the clause.

[38] Clause 40 Individual access licence account management rules for the Murray Unregulated River Water Sources

Omit the words ‘for the Murray Unregulated River Water Sources’ from the clause heading.

[39] Clause 40 (1)

Omit the subclause. Insert instead –

(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.

[40] Clause 40 (3)

Omit the words ‘section 71T’ wherever occurring. Insert instead ‘sections 71T or 71V’.

[41] Clause 41 Individual access licence account management rules for the Upper Murray Groundwater Source

Omit the clause.

[42] Clause 43 Flow clauses

Omit the words ‘the Murray Unregulated River Sources’. Insert instead ‘these water sources’.

[43] Clause 43, Table B

Omit ‘m’ wherever occurring. Insert instead ‘metres’.

[44] Clause 43, Table B

Omit ‘Glenroy gauge’ wherever occurring. Insert instead ‘Glenroy No. 2 gauge’.

[45] Clause 43, Table B

Omit ‘40110008’. Insert instead ‘4010291’.

[46] Clause 43, Table B

Omit ‘Tumbarumba Gauge No 2’ wherever occurring. Insert instead ‘Tumbarumba No. 2 gauge’.

[47] Clause 44 Access rules for the taking of surface water

Omit subclause (1). Insert instead –

(1) This clause applies to the taking of water under an access licence from these water sources, excluding the taking of water under an access licence used in association with an aquifer interference activity.

[48] Clause 44 (2)

Omit the word ‘clause’ from this subclause. Insert instead ‘subclause’.

[49] Clause 44 (5), note

Omit the note. Insert instead –

Notes.

- 1 Cease to take condition and *Water Act 1912* entitlement are defined in the Dictionary.
- 2 Those licences and access rules that have been identified as higher than the upper limit of the cease to take conditions are referred to in Appendix 3.

[50] Clause 44 (10)

Insert at the end of the subclause –

Note. In-river dam and in-river dam pool is defined in the Dictionary.

[51] Clause 44 (12) (c)

Omit the paragraph.

[52] Clause 44 (12) (d).

Insert at the end of the paragraph –

Note. In-river dam and in-river dam pool is defined in the Dictionary.

[53] Clause 44 (13)

Omit the subclause. Insert instead –

- (13) Water must not be taken under a local water utility access licence or an unregulated river (“Town water supply”) access licence that replaced an entitlement issued under Part 2 of the *Water Act 1912* that is specified in Column 1 of Schedule 5 in contradiction of the access rule specified in Column 3 of Schedule 5.

[54] Clause 45 Total daily extraction limits

Omit the note. Insert instead –

Notes.

1 Total daily extraction limit is defined in the Dictionary.

2 TDELs are an assessment tool only and will be used by the Department to determine which access licences (if any) may require individual daily extraction limits. However, continued exceedance of the TDEL may result in the imposition of individual daily extractions limits under clause 46.

[55] Clause 46 Individual daily extraction limits

Insert at the end of subclause (2) –

Note. Individual daily extraction limit is defined in the Dictionary.

[56] Part 9

Omit the Part. Insert instead –

Part 9 Rules for water supply work approvals

Notes.

1 This Part is made in accordance with sections 5, 21 and 95 of the Act.

2 Part 12 allows for amendments to be made to Part 9.

Division 1 Rules applying to water supply works

47 General

The rules in this Division apply to water supply work approvals for water supply works that may be used to take water from these water sources.

48 Granting or amending water supply work approvals

(1) (Repealed)

(2) An application for the granting or amending of a water supply work approval for an in-river dam on third or higher order streams within these water sources, except for the Dora Dora Water Source, may be considered, consistent with the principles of the Act.

(3) A water supply work approval must not be granted or amended to authorise a water supply work which, in the Minister’s opinion, is located within a pool, lagoon or lake that is not within a river, unless the Minister is satisfied that the location of the water supply work would result in no more than minimal impact on existing extractions within these water sources.

(4) Subject to subclause (6), a water supply work approval must not be granted or amended to authorise a water supply work located on the Eagle Creek System within

the Murray Below Mulwala Water Source, unless the applicant is entitled to take water under a water access licence that nominates water supply work approval 50WA503603. The Eagle Creek System includes the Eagle Creek Cutting, Eagle Creek, Hudson Creek and two unnamed watercourses (hereafter the Eagle Creek System).

- (5) Subject to subclause (6), a water supply work approval must not be granted or amended to authorise a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source unless the applicant is entitled to take water under a water access licence that nominates water supply work approval 50WA500048.
- (6) Subclauses (4) and (5) do not apply to the granting or amendment of a water supply work approval for a replacement water supply work used to take water from the Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source. For the purposes of this subclause, a replacement water supply work means a water supply work that replaces an existing water supply work constructed and used for the purpose of taking water from the Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source where:
 - (a) the existing water supply work is authorised by a water supply work approval under the Act, and
 - (b) the replacement water supply work is to be constructed to extract water from the same location as the existing water supply work.

Division 2 (Repealed)

49 - 55 (Repealed)

[57] Clause 58 Assignment of rights dealings (with water sources)

Omit the words '(with water sources)' from the clause heading.

[58] Clause 58 (2)

Insert the words 'within the same water source' after the word 'Act'.

[59] Clause 58 (3)

Insert at the end of subclause (2) –

- (3) Dealings under section 71Q of the Act between water sources within the same water management area are prohibited in these water sources if the dealing involves an assignment of rights:
 - (a) to an access licence with a share component that specifies a water source located in a different extraction management unit,
 - (b) to an access licence with a share component that specifies one of the following water sources:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (d) to an access licence with a share component that specifies the Indi Water Source, if:

- (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 3,238,
- (e) to an access licence with a share component that specifies the Mannus Water Source, if:
- (i) the dealing involves an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,668,
- (f) to an access licence with a share component that specifies the Maragle Water Source, if:
- (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 567,
- (g) to an access licence with a share component that specifies the Tooma Water Source, if:
- (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an access licence with an extraction component that specifies the Tooma Tributaries Management Zone,
- (h) to an access licence with a share component that specifies the Tumbarumba Water Source, if:
- (i) the dealing involves an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,233, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 960.

[60] Clause 59 Amendment of share component dealings (change of water source)

Omit clause 59 (2) (c) (viii) – (x). Insert instead –

- (viii) Ournie Welaregang Water Source, or
- (ix) Swampy Plain Water Source,
- (x) (repealed)

[61] Clause 59 (2) (d) – (g)

Omit the paragraphs. Insert instead –

- (d) the granting of a new access licence with a share component that specifies the Indi Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 3,238,
- (e) the granting of a new access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,668,
- (f) the granting of a new access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 567,
- (g) the granting of a new access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an access licence with an extraction component that specifies the Tooma Tributaries Management Zone,

[62] Clause 59 (2) (i)
Omit the paragraph.

[63] Clauses 61 – 63
Omit the clauses. Insert instead –

61 Assignment of water allocations dealings

- (1) This clause relates to dealings under section 71T of the Act in these water sources.
- (2) Dealings under section 71T of the Act within the same water source are prohibited in these water sources if the dealing involves an assignment of water allocation:
 - (a) from an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Mannus Upstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310,
 - (b) from an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Mannus Downstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
 - (c) from an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tooma River Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Tooma River Management Zone at the date of commencement of this Plan plus 2,177,
 - (d) from an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
 - (e) from an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source, if:

- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,233,
 - (f) from an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960,
 - (g) from an unregulated river (high flow) access licence to an access licence of another category,
 - (h) from an access licence that does not nominate a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on the Eagle Creek System within the Murray Below Mulwala Water Source, or
 - (i) from an access licence that does not nominate a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (3) Dealings under section 71T of the Act between different water sources are prohibited in these water sources if the dealing involves any of the following:
- (a) an assignment of water allocation from an access licence in one extraction management unit to an access licence in another extraction management unit,
 - (b) an assignment of water allocation to an access licence in the:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
 - (c) an assignment of water allocation to an access licence with a share component that specifies the Indi Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or

- (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 3,238,
- (d) an assignment of water allocation to an access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Upstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Downstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (e) an assignment of water allocation to an access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 567,
- (f) an assignment of water allocation to an access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tooma River Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tooma River Management Zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an assignment of water allocation to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
- (g) an assignment of water allocation to an access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Upstream Management Zone, from available water determinations or

- dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,223, or
- (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Downstream Management Zone, from available water determinations or dealings under section 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960.

62 Interstate transfer of access licences and assignment of water allocations

- (1) This clause relates to dealings under section 71U or 71V of the Act in these water sources.
- (2) Subject to subclause (3), dealings involving the interstate transfer of an access licence to or from these water sources may only be permitted where administrative arrangements have been agreed to, and put in place by NSW and the other State or Territory.
- (3) Dealings involving the interstate transfer of an access licence to these water sources are prohibited if the dealing involves any of the following:
 - (a) the granting of a new access licence with a share component that specifies one of the following water sources:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
 - (b) the granting of a new access licence with a share component that specifies the Indi Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 3,238,
 - (c) the granting of a new access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that

- existed in that management zone at the date of commencement of this Plan plus 1,668,
- (d) the granting of a new access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 567,
 - (e) the granting of a new access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the dealing involves the granting of an access licence with an extraction component that specifies the Tooma Tributaries Management Zone,
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves the granting of an access licence of a category other than unregulated river (high flow) with an extraction component that specifies the Tooma River Management Zone,
 - (f) the granting of a new access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,233, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 960.
- (4) The share component of a new access licence specifying one of these water sources granted in accordance with subclause (3) shall be equal to:
- (a) the share component equivalent of the cancelled access licence where a conversion factor has not been established by the Minister under section 71Z of the Act, or
 - (b) the share component equivalent of the cancelled access licence multiplied by a conversion factor established by the Minister and published in an order made under section 71Z of the Act.
- (5) Subject to subclause (6), dealings involving the interstate assignment of water allocations to or from access licences in these water sources may only be permitted where administrative arrangements have been agreed to and put in place by NSW and the other State or Territory.
- (6) Dealings involving the interstate assignment of water allocations to access licences in these water sources are prohibited if the dealing involves any of the following:
- (a) an assignment of water allocation to an access licence in the:

- (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
- (b) an assignment of water allocation to an access licence with a share component that specifies the Indi Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source, from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 3,238,
- (c) an assignment of water allocation to an access licence with a share component that specifies the Mannus Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Upstream Management Zone, from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Downstream Management Zone, from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (d) an assignment of water allocation to an access licence with a share component that specifies the Maragle Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source, from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 567,
- (e) an assignment of water allocation to an access licence with a share component that specifies the Tooma Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tooma River Management Zone, from available water determinations or dealings

- under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tooma River Management Zone at the date of commencement of this Plan plus 2,177, or
- (iii) the dealing involves an assignment of water allocation to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
- (f) an assignment of water allocation to an access licence with a share component that specifies the Tumbarumba Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Upstream Management Zone, from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,223 or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Downstream Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960.

63 Nomination of water supply works dealings

- (1) This clause relates to dealings under section 71W of the Act in these water sources.
- (2) Dealings under section 71W of the Act are prohibited if the dealing involves:
 - (a) an access licence being amended to nominate a water supply work located in a different management zone than that specified in the extraction component of the access licence,
 - (b) an access licence being amended to nominate a water supply work located in a different water source to that specified in the share component of the access licence,
 - (c) an access licence that does not nominate a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on the Eagle Creek System within the Murray Below Mulwala Water Source, or
 - (d) an access licence that does not nominate a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (3) Dealings under section 71W of the Act in these water sources that involve the nomination of a specified extraction point in an interstate water tagging zone may only be permitted where administrative arrangements have been agreed to and put in place by NSW and the other State or Territory.
- (4) Dealings under section 71W of the Act in these water sources that involve the nomination of a specified extraction point in an interstate water tagging zone are prohibited if the dealing involves an unregulated river (high flow) access licence.

[64] Clause 64 General

Omit paragraph (a). Insert instead –

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to the address listed in Schedule 6 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.

[65] Clause 64 (c)

Insert at the end of the paragraph –

Note. Logbook is defined in the Dictionary.

[66] Clause 65

Omit the clause. Insert instead –

65 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 for the respective category or subcategory of access licence,
 - (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, and
 - (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 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 taken on that date was used,
 - (v) for unregulated river access licences, unregulated river (high flow) access licences, domestic and stock access licences and local water utility access licences in these water sources, the volume of water taken in the first three water years of this Plan, by comparison to the maximum volume of water permitted to be taken in those years under clause 40 (2),
 - (vi) for unregulated river access licences, unregulated river (high flow) access licences, domestic and stock access licences and local water utility access licences in these water sources, the volume of water taken in any three consecutive water years after the first water year of this Plan, by comparison to the maximum volume of water permitted to be taken in those years under clause 40 (3), and

- (vii) (repealed)
 - (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, and
 - (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 from subclause (2).
- (4) 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.

Note. Aboriginal person is defined in the Dictionary.

- (5) 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.

- (6) Subclauses (2), (3) and (5) 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*.

[67] Clause 66 General

Omit the clause. Insert instead –

66 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) 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 8 of this Plan,
- Note.** This paragraph applies to water supply works used to take water under an access licence. It does not apply to water supply works used to take water under an authority other than an access licence, such as the exemption under the regulations for water users in the Eagle Creek System, Bingera Creek and Bungaree Creek within Murray Below Mulwala Water Source.
- (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 the Australian Technical Specification: ATS 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 as 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.

- (c) any other conditions required to implement the provisions of the 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) (b) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (1B) Subclause (1) (b) 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 Act (General) Regulation 2018*.

Note. Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to existing 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, must have mandatory conditions to give effect to the following, provided that these requirements do not apply to a water supply work that is a metered water supply work with a data logger:
- (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 access licence 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 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.
- (2A) 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, subclause (2) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (2B) Subclause (2) and (2A) 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*.
- (3) 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 those 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.
- (4) Water supply work approvals for runoff harvesting dams and in-river dams must contain a mandatory condition that requires approval holders 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 an 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.
- (5) (Repealed)

[68] Clause 67 Water supply works used to take water from the Upper Murray Groundwater Source

Omit the clause

[69] Clause 69 Part 1

Omit the word 'registered' from paragraph (d). Insert instead 'Plan'.

[70] Clause 69A

Insert after clause 69 –

69A Part 6

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 and the New South Wales Murray Regulated River Water Source.

[71] **Clause 70 Part 8**
Omit paragraph (a).

[72] **Clause 70 (d)**
Omit the paragraph. Insert instead –

- (i) (repealed),
- (ii) to specify alternate access rules for lagoons, lakes, in-river pools and other lentic water bodies,
- (iii) (repealed),

[73] **Clause 70 (e)**
Insert the word ‘sources’ after the words ‘TDEL’s in these water’.

[74] **Clause 71**
Omit the clause. Insert instead –

71 Part 9

Part 9 may be amended to do any of the following:

- (a) amend clause 48 (2) to specify additional water sources or management zones or amend the water sources or management zones where water supply work approvals must not be granted or amended to authorise an in-river dam on third or higher order streams, or
- (b) include further restrictions on the granting or amending of water supply works,
- (c) (repealed)
- (d) (repealed)
- (e) (repealed)
- (f) amend the definition of a replacement water supply work in clause 48 (6).

[75] **Clause 71A**
Insert after clause 71 –

71A Part 10

Part 10 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.

[76] **Clause 72**
Omit the clause. Insert instead –

72 Part 11

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

[77] **Clause 73 Schedules**
Omit the words ‘Schedule 1’ from subclause (1). Insert instead ‘The Dictionary’.

[78] **Clause 73 (4) and (5)**
Omit the subclauses.

[79] **Clause 74**

Omit the clause. Insert instead –

74 Other

- (1) This Plan may be amended to provide rules for the following:
 - (a) (repealed)
 - (b) the management of floodplain harvesting within these water sources,
 - (c) the shepherding of water,
Note. Shepherding is defined in the Dictionary.
 - (d) any new category of access licence established for the purpose of stormwater harvesting, provided that the amendment does not affect the long-term average annual extraction limits specified in this Plan,
 - (e) the interception of water before it reaches a stream or aquifer by plantations or other means, or
 - (f) conditions on the taking of water from Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (2) (Repealed)
- (3) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.
- (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 5 to provide for rules for the protection of water dependent Aboriginal cultural assets, including:
 - (a) the identification of water dependent Aboriginal cultural assets in a Schedule to this Plan,
 - (b) amendments to the access rules to protect water dependent Aboriginal cultural assets,
 - (c) restrictions on the granting and amendment of water supply works to protect water dependent Aboriginal cultural assets, and/or
 - (d) amendments to the dealing rules to protect water dependent Aboriginal cultural assets.
- (6) This Plan may be amended to enable a water resource plan to be accredited under the *Water Act 2007* (Cth).

[80] Schedule 1 Dictionary

Omit the note.

[81] Schedule 1

Omit the following terms –

alluvial sediment, cease to take condition, drawdown, fractured rock, grazeable area, groundwater dependent porous rock, in-river dam recharge, registered map, replacement groundwater, runoff harvesting dam, slotted intervals and stream order.

[82] Schedule 1

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.

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.

cease to take condition means any term or condition on a water supply work approval, an access licence or *Water Act 1912* entitlement that prohibits the taking of water in a particular circumstance.

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.

in-river dam means a dam located in a river created by a structure authorised by a water supply work approval.

New South Wales Murray 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.

runoff harvesting dam means a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in the harvestable rights orders made under Division 2 of Part 1 of Chapter 3 of the Act and published in the NSW Government Gazette No 40 on 31 March 2006 at page 1628. For the purposes of this Plan, references to runoff harvesting dams as water supply works include any associated pumps or other works which take water from the dam. For the purpose of clarity, this definition includes dams that are also used to store water diverted into the dam from a river or other source of water.

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.

[83] **Schedule 3 and 4**
Omit the Schedules.

[84] **Schedule 6**
Insert after Schedule 5 –

Schedule 6 Office

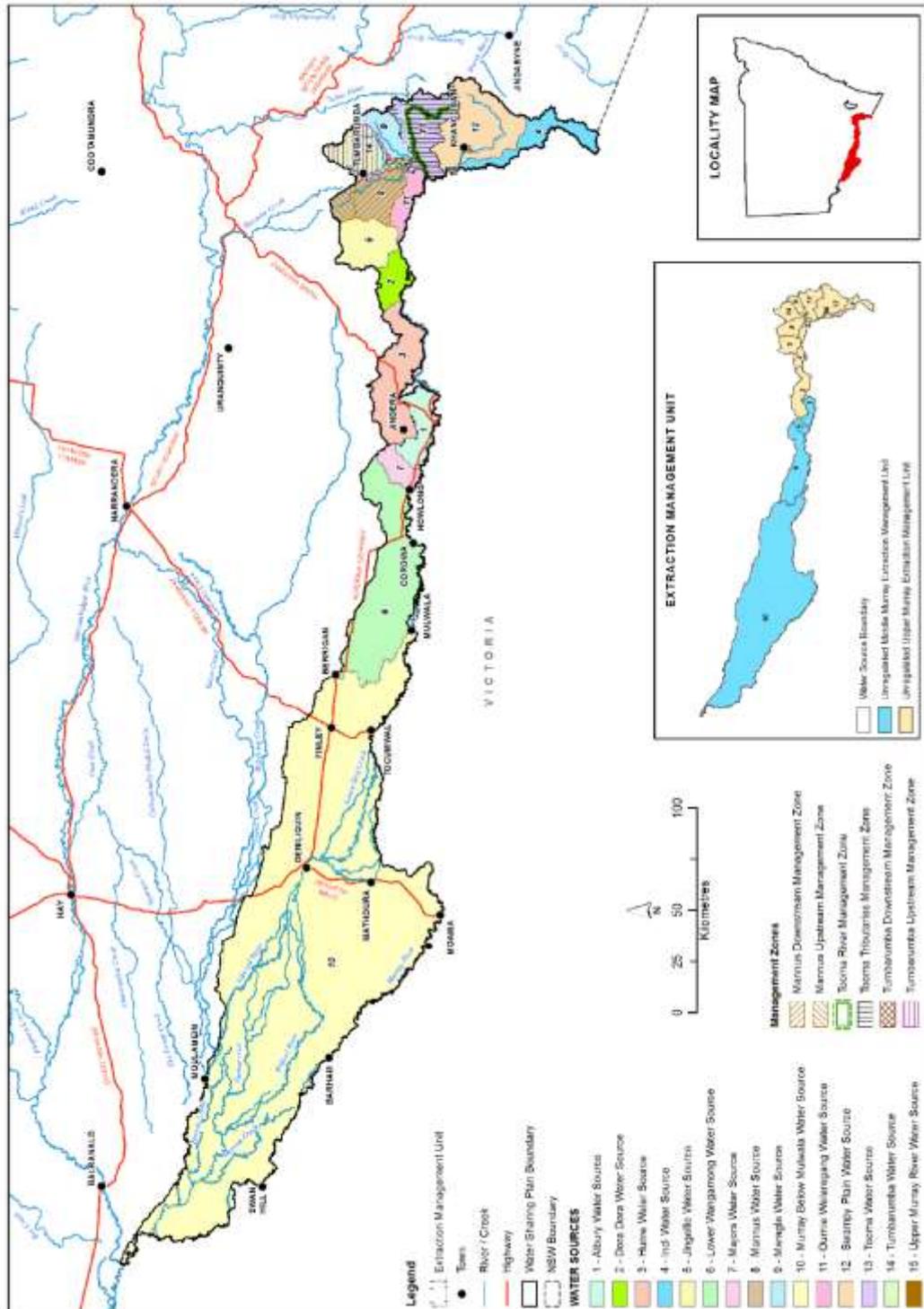
NSW Department of Planning, Industry and Environment – Water
Suite 5B/620 Macauley Street
Albury NSW 2640

[85] Appendix 1 and 2

Omit the Appendices. Insert instead –

Appendix 1 Overview of the Plan Map

Overview of the Plan Map (WSP045_Version 2) Water Sharing Plan for the Murray
Unregulated River Water Sources 2011



[86] Appendix 3 Access licences with pre-existing cease to pump thresholds that are higher than the upper limit of the relevant cease to take conditions

In Column 3 of the row relating to 50SL033472 Murray Below Mulwala Water Source – omit the words ‘Not withstanding’. Insert instead ‘Notwithstanding’.