



New South Wales

# Water Management Amendment Act 2018 No 31

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New South Wales

# Water Management Amendment Act 2018 No 31

Act No 31, 2018

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An Act to amend the *Water Management Act 2000* with respect to management plans, approvals and access licences, Murray-Darling Basin water resources, metering equipment, enforcement and liability, the provision of information and managing environmental water; and for other purposes. [Assented to 27 June 2018]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Water Management Amendment Act 2018*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedules 1 [1]–[7], [9]–[25], [28], [30], [31], [34]–[36], [38]–[42], [45]–[51], [53], [54], [56]–[59], [61]–[70], [73]–[76], [78]–[80], [85], [88]–[90], [92] (except to the extent that it inserts the definition of *individual daily extraction component*), [93]–[96], 2.1–2.3 and 2.5 commence on the date of assent to this Act.

## **Schedule 1      Amendment of Water Management Act 2000 No 92**

- [1]    **Sections 7 (2), 13 (1) (g), 41 (2), 45 (3), 49A (2), 50 (3) and 75 (2)**  
Omit “Climate Change and” wherever occurring.
- [2]    **Section 17 Provisions applicable to all management plans**  
Omit “(*mandatory conditions*)” from section 17 (c).
- [3]    **Section 21 Additional provisions**  
Insert after section 21 (e):  
        (e1)    measures, not inconsistent with this Act, that are necessary because of requirements arising under the *Water Act 2007* of the Commonwealth,
- [4]    **Sections 38 (2) (c), 49A (3), 110 (3), 111 (3), 142 (3), 144 (3), 156 (3), 205 (3), 216 (2), 282 (2) (b), 324 (3) and 336B (4) (c)**  
Omit “an appropriate newspaper” wherever occurring.  
Insert instead “the authorised manner”.
- [5]    **Section 43 Duration of management plans**  
Omit “Climate Change and the Environment” from section 43 (3).  
Insert instead “the Environment and the Natural Resources Commission”.
- [6]    **Section 43A Extension of duration of management plan dealing with water sharing**  
Omit section 43A (3) (a). Insert instead:  
        (a)    the extent to which the water sharing provisions have materially contributed to the achievement of, or the failure to achieve, environmental, social and economic outcomes,
- [7]    **Section 44 Periodic auditing of management plans**  
Omit “at intervals of not more than 5 years” from section 44 (1).  
Insert instead “within the first 5 years of the plan”.
- [8]    **Section 44 (2)**  
Omit the subsection. Insert instead:  
        (2)    An audit under this section is to be carried out by the Natural Resources Commission.
- [9]    **Section 45 Minister may amend or repeal management plan**  
Insert at the end of section 45 (1) (c):  
        , or  
        (d)    if satisfied that it is necessary to do so because of requirements arising under the *Water Act 2007* of the Commonwealth.
- [10]   **Section 45 (5A)**  
Insert after section 45 (5):  
        (5A)   The Minister may at any time, by order published on the NSW legislation website, repeal a management plan that deals with water sharing if satisfied

that it is necessary to do so because of requirements arising under the *Water Act 2007* of the Commonwealth.

**[11] Section 49A Suspension of management plans during severe water shortages**

Insert “(unless sooner revoked)” after “expires” in section 49A (4).

**[12] Section 49A (5)**

Insert “or section 49B” after “this section” wherever occurring.

**[13] Section 49B**

Insert after section 49A:

**49B Suspension of Basin management plans during extreme events**

- (1) If satisfied that there is an extreme event in relation to a particular Basin management area or part of the Basin water resources, the Minister may, by order published in the Gazette, suspend the operation of any Basin management plan, either in whole or in part, in relation to that or any other Basin management area or water source or part of a water source that is part of the Basin water resources.
- (2) Before suspending the operation of a Basin management plan in relation to a Basin management area or part of the Basin water resources, the Minister must obtain the concurrence of the Minister for the Environment.
- (3) As soon as practicable after an order under this section is published in the Gazette, a copy of the order must be published:
  - (a) in the authorised manner, or
  - (b) on a publicly accessible website that, in the opinion of the Minister, is appropriate for the publication of orders of that kind.
- (4) An order under this section expires (unless sooner revoked) at the end of 30 June following the date on which it is made or, if made on or after 1 April in any year, at the end of 30 June of the following year.
- (5) An order may not be made under this section in relation to a Basin management plan that has, at any time during the previous 12 months, been subject to an order under this section or section 49A unless the Minister is satisfied, for reasons specified in the order, that there is no need for the plan to be amended under Division 9.
- (6) Except as provided by subsection (5), this section does not prevent a Basin management area or part of the Basin water resources from being the subject of an order under section 49A.

**[14] Section 51 Implementation programs**

Omit “(in an appropriate newspaper and in such other manner as the Minister considers appropriate)” from section 51 (4) (a).

Insert instead “in the authorised manner”.

**[15] Section 55A Application of Part**

Insert after section 55A (2):

- (3) To avoid doubt, the revocation of a management plan or amendment of a management plan so as to remove, or change the description of, a water source described in a proclamation made under this section does not affect the

application of this Part to the water source as effected by a proclamation previously made under this Part.

**[16] Section 59 Available water determinations**

Insert “or 49B (1)” after “section 49A (1)” in section 59 (1) (b).

**[17] Section 60 Rules of distribution applicable to making of available water determinations**

Insert “or 49B” after “section 49A” in section 60 (1).

**[18] Section 60 (3A)–(3C)**

Insert after section 60 (3):

- (3A) While an order under section 49B is in force, the following rules of distribution apply to the making of an available water determination:
  - (a) first priority is to be given to meeting critical human water needs,
  - (b) second, third, fourth and fifth priorities are to be given to the matters set out in subsection (3) (a), (b), (c) and (d), respectively, to the extent that those matters are not critical human water needs.
- (3B) In a case where orders under both sections 49A and 49B are in force in relation to the same water management area or water source, the rules set out in subsection (3A) prevail.
- (3C) In this section:

*critical human water needs* means the needs for a minimum amount of water, that can only reasonably be provided from the Basin water resources, required to meet:

  - (a) core human consumption requirements in urban and rural areas, and
  - (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.

**[19] Section 60G Minister may charge for water illegally taken**

Insert after section 60G (2):

- (3) For the purposes of taking action under this section, the Minister may determine the quantity of water taken by estimating the quantity in accordance with a methodology prescribed by the regulations for the purposes of this section.

**[20] Section 66 Conditions of access licence generally**

Omit “(*mandatory conditions*)” from section 66 (1) (a).

**[21] Section 66 (1AA)**

Insert after section 66 (1):

- (1AA) An access licence is subject to any mandatory conditions imposed by this Act or the regulations.

**[22] Section 66 (1A)**

Insert “(other than conditions imposed by the regulations)” after “Mandatory conditions”.

**[23] Section 66 (5)**

Insert after section 66 (4):

- (5) In this section, *mandatory condition* means a condition referred to in subsection (1) (a) or (1AA) or imposed under section 8E.

**[24] Section 67 Imposition of conditions after access licence is granted**

Insert “referred to in section 66 (1) (a)” after “Mandatory conditions” in section 67 (3).

**[25] Section 68A Amendment of share or extraction components of access licences and other actions by Minister**

Insert after section 68A (1B):

- (1C) The Minister may amend the share component of a specific purpose access licence. The Minister may, in such a case, grant a new access licence specifying the share component to which the specific purpose access licence no longer applies.
- (1D) An amendment may only be made under subsection (1C) if that part of the share component that is the subject of the amendment is no longer necessary for the purpose for which the specific purpose access licence was granted.
- (1E) The Minister may amend an access licence by withdrawing the nomination of a specified water supply work as a work by means of or from which water may be taken under the licence, if the work is the subject of an approval that has expired or has been cancelled or surrendered.
- (1F) The Minister may amend an access licence or approval under subsection (1C) or (1E) at the Minister’s discretion or at the request of the holder of the licence or approval.

**[26] Section 71 Water Access Licence Register**

Omit section 71 (3) and (4).

**[27] Section 71QA**

Insert after section 71Q:

**71QA Assignment of individual daily extraction component**

- (1) For the purposes of this section, an *individual daily extraction component* means an entitlement of the holder of an access licence to take a specified volume of water on a specified day, whether or not it is limited to specified rates or in specified circumstances.
- (2) The holders of 2 or more access licences may apply to the Minister for consent to the assignment of the rights to individual daily extraction components between one or more of the licences.
- (3) An application may be made to assign an individual daily extraction component for a specified day or a specified period, or in specified circumstances, or any or all of them, and may relate to the whole or part of an individual daily extraction component.
- (4) The Minister may consent to the assignment of rights between the access licences concerned by:
- (a) a reduction or removal of the whole or part of one or more individual daily extraction components of one or more of the licences, and

- (b) a corresponding increase in the individual daily extraction components of the others.
- (5) A reduction or increase may be specified by the Minister to have effect for a specified period, or in specified circumstances, or both.
- (6) The assignment of a right to an individual daily extraction component does not entitle the assignee to take water in excess of the volume the assignee is otherwise authorised to take.
- (7) A holder of an access licence may acquire a right to an individual daily extraction component whether or not the holder has any available water allocation credited to the holder's water allocation account.
- (8) An access licence is not cancelled merely because, as a result of an assignment under this section, it has a zero extraction component for the time being.
- (9) This section is taken to authorise the amendment of a management plan to provide for access licence dealing rules relating to dealings under this section as if the amendment were authorised by the plan and section 45 (1) (b) applies accordingly.

**[28] Section 71U Interstate transfer of access licences**

Insert "and Part 5 of Chapter 3" after "section 63 (4), (5), (6) and (7)" in section 71U (4).

**[29] Section 71Y General**

Insert "71QA," before "71T" in section 71Y (1).

**[30] Section 71Y (2)**

Insert "or 49B" after "section 49A".

**[31] Section 78A Notification of intention to suspend, cancel or require payment of penalty**

Insert after section 78A (1):

- (1A) If the Minister fails to give notice to the holder of an access licence or a security holder before taking action under section 77A or 78, the Minister is taken to have complied with subsection (1) (a)–(c) in relation to that holder if the Minister took all reasonable steps to give notice under subsection (1) to the holder within the period of 28 days before taking the action.

**[32] Section 84 Register of available water determinations**

Omit "the form in which such a register is to be kept and" from section 84 (2).

**[33] Section 85AA**

Insert after section 85:

**85AA Daily extraction accounts**

- (1) Individual daily extraction components imposed on an access licence are to be recorded in the water allocation account.
- (2) For each access licence, the Minister is to cause an account to be kept of:
  - (a) any individual daily extraction component that is acquired under section 71QA, and
  - (b) any individual daily extraction component that is assigned under section 71QA.



- (3) The regulations may make provision for or with respect to the particulars that are to be recorded in a water allocation account for the purposes of this section.

**[34] Section 85A Authorisation to take water from uncontrolled flows**

Omit section 85A (2). Insert instead:

- (2) The management plan may make provision for or with respect to the circumstances in which the holders of one or more of the following licences that relate to a water source to which this section applies are authorised to take water from the water source that has not been credited to the water allocation accounts of those licences:
- (a) regulated river (high security) access licences,
  - (b) regulated river (general security) access licences,
  - (c) floodplain harvesting access licences,
  - (d) any other access licences prescribed by the regulations.
- (3) The management plan may make provision for or with respect to subsequent adjustments to the water allocation accounts for the licences.

**[35] Section 87 Compensation payable in certain circumstances for reductions in water allocations arising during initial period for which management plan is in force**

Insert after section 87 (9):

- (10) Despite subsection (9), if the first management plan that is established for a bulk access regime is repealed under section 45 (5A) and replaced, compensation under this section may be claimed in respect of a reduction in water allocations occurring during the period of the replacement plan that ends on the day on which the first management plan would have ended if it had not been repealed.

**[36] Section 87AA Compensation payable in certain circumstances for reductions in water allocations arising during initial period for which management plan is in force**

Insert “or during the period during which compensation is payable under section 87 (10)” after “in force” in section 87AA (3) (a).

**[37] Section 87D**

Insert after section 87C:

**87D Information about rights to take water from water sources**

- (1) The Minister may authorise the publication of the following information about a water source on a publicly accessible website approved by the Minister:
- (a) whether or not water can be taken by access licence holders from a particular part of the water source on a particular day or at a particular time on a particular day in accordance with an applicable management plan, a particular condition of an access licence or any other specified requirement of or under this Act,
  - (b) the amount of water that can be taken from a particular part of the water source on a particular day or at a particular time on a particular day, in accordance with an applicable management plan, a particular condition of an access licence or any other specified requirement of or under this Act,

- (c) information relating to water flows and levels of a particular part of a water source, including gauge readings and other measurements, on a particular day or at a particular time on a particular day.
- (2) For the purposes of this Act, a person is taken to be permitted to take water in accordance with a management plan or a condition of an access licence if the person:
  - (a) is entitled to take water under that plan or licence, and
  - (b) takes water in accordance with information published under this section.
- (3) This section does not:
  - (a) permit a person to take water if to do so would contravene a condition of an access licence that is not the subject of information published under this section, or
  - (b) prevent a person from taking water if the person is otherwise permitted to do so under an access licence or by or under this Act.

**[38] Section 88A Application of Part**

Insert after section 88A (2):

- (2A) To avoid doubt, the revocation of a management plan or amendment of a management plan so as to remove, or change the description of, a water source described in a proclamation made under this section does not affect the application of this Part to the water source as effected by a proclamation previously made under this Part.

**[39] Section 91H Failure to install, use or maintain metering equipment**

Insert “or use” after “install” wherever occurring in section 91H (1).

**[40] Section 91H (1) (c)**

Insert at the end of section 91H (1) (b):

or

- (c) a regulation made under Part 6 of Chapter 3,

**[41] Section 91H**

Omit “water supply work or drainage work” wherever occurring.

Insert instead “water management work”.

**[42] Section 91H (3) and (4)**

Insert after section 91H (2):

- (3) A person is guilty of an offence if the person fails to comply with any regulation setting out a standard or requirement for the installation or location of metering equipment, or setting out any other standard or requirement relating to metering equipment, used in connection with a water management work.  
Tier 2 penalty.
- (4) It is a defence to an offence under subsection (3) if the accused person establishes that the failure to comply with the regulation was caused by work done to the metering equipment by a duly qualified person.

**[43] Section 91I Taking water when metering equipment not working**

Omit section 91I (3). Insert instead:

- (3) Subsections (1) (b) and (2) do not apply if the person who takes the water complies with any requirements set out in the regulations for the purposes of this subsection.

**[44] Section 91IA**

Insert after section 91I:

**91IA Failure to report metering equipment not working**

A person is guilty of an offence if:

- (a) the person is the holder of an approval for a work in connection with which any metering equipment has been installed, and
- (b) the person fails to give notice, in accordance with regulations made for the purposes of this section, that the metering equipment is not operating properly, or is not operating, within 24 hours of becoming aware of that fact.

Tier 2 penalty.

**[45] Sections 91J and 91K**

Omit “water supply work or drainage work” wherever occurring.

Insert instead “water management work”.

**[46] Section 91J Metering records**

Insert at the end of the section:

- (2) A person must not in or in connection with a metering record required to be kept under this Act, or a requirement of a regulation in connection with metering equipment, make a statement or furnish any information that the person knows to be false or misleading in a material particular.

Tier 2 penalty.

**[47] Section 91K Meter tampering**

Omit section 91K (5).

**[48] Section 100 Conditions of approvals generally**

Omit “(*mandatory conditions*)” from section 100 (1) (a).

**[49] Section 100 (1AA)**

Insert after section 100 (1):

- (1AA) An approval is subject to any mandatory conditions imposed by this Act or the regulations.

**[50] Section 100 (1A)**

Insert “(other than conditions imposed by the regulations)” after “Mandatory conditions”.

**[51] Section 100 (4)**

Insert after section 100 (3):

- (4) In this section, *mandatory condition* means a condition referred to in subsection (1) (a) or (1AA) or imposed under section 101A.

**[52] Section 101A**

Insert after section 101:

**101A Metering equipment condition**

- (1) It is a mandatory condition of a water supply work approval that metering equipment is installed, used and properly maintained in connection with the work.
- (2) The holder of a water supply work approval is taken to have complied with a particular aspect of the condition imposed by this section if the holder has complied with the applicable requirements (if any) prescribed by the regulations.
- (3) The regulations may provide that the condition does not apply to holders of approvals, or works, specified by the regulations, or in circumstances specified by the regulations.

**[53] Section 102 Imposition or change of conditions after approval is granted**

Insert “referred to in section 100 (1) (a)” after “of an approval” in section 102 (3).

**[54] Section 109 Suspension and cancellation of approvals**

Insert after section 109 (3):

- (4) If the Minister fails to give notice to the holder of an approval before taking action under this section, the Minister is taken to have complied with subsection (3) (a)–(c) in relation to that holder if the Minister took all reasonable steps to give notice under subsection (3) to the holder within the period of 28 days before taking the action.

**[55] Section 113 Register of approvals**

Omit “the form in which such a register is to be kept and” from section 113 (2).

**[56] Chapter 3, Parts 5 and 6**

Insert after Part 4 of Chapter 3:

**Part 5 Conditions imposed by regulations**

**115 Regulations may impose mandatory conditions**

- (1) The regulations may impose mandatory conditions on access licences and approvals relating to the following:
  - (a) metering equipment or any other means of measuring water flows,
  - (b) requiring notice to be given of a change to or the replacement of a water supply work, or any part of it, that results in an increase in the capacity of the work to take water,
  - (c) reporting by holders of access licences or approvals as to water taken,
  - (d) measures recommended by the Natural Resources Access Regulator to improve compliance with and enforcement of this Act.

- (2) A mandatory condition may be imposed on particular access licences or approvals or classes of access licences or approvals.
- (3) A mandatory condition may be imposed on all access licences or approvals for a specified water source or access licences or approvals within a specified part of the State.
- (4) A mandatory condition, other than a condition that is of a machinery nature or is minor in its effect, must not be prescribed unless the proposed condition has been publicly exhibited for not less than 28 days in accordance with any requirements of the regulations.

**115A Regulations relating to mandatory and other licence conditions**

The regulations may provide for the following:

- (a) notification to holders of approvals or access licences of mandatory conditions imposed under this Part,
- (b) the imposition of a mandatory condition under this Part on a licence or other entitlement in force under the *Water Act 1912* and deeming any such condition to be imposed under that Act,
- (c) that a mandatory condition imposed under this Part has effect despite any other approval or licence or condition of an approval or licence under this Act or the *Water Act 1912* or any other instrument made under this Act or that Act,
- (d) the amendment of management plans or licences or approvals to remove or vary conditions that are covered by, or are inconsistent with, mandatory conditions imposed by the regulations under this Part.

## **Part 6 Regulations relating to water management works**

**115B Metering equipment**

- (1) This section applies to a water management work, whether or not an approval is required to install or use the work.
- (2) Regulations may be made for or with respect to metering equipment in connection with works to which this section applies.
- (3) In particular, and without limiting subsection (2), regulations may be made for or with respect to the following:
  - (a) requiring persons who have control and management of works to install, use and maintain metering equipment,
  - (b) setting out standards and other requirements for metering equipment to be used in connection with works,
  - (c) setting out standards and other requirements for the location and installation of metering equipment,
  - (d) the keeping of metering records relating to maintenance of metering equipment and taking of water during periods when metering equipment is not able to be used and relating to any other matters specified by the regulations,
  - (e) the taking of water by means of a metered work while its metering equipment is not operating properly or is not operating,
  - (f) requiring the owners of metering equipment, holders of approvals or other persons to provide information obtained from or about the equipment,

- (g) the provision of information derived from or about metering equipment to the holders of approvals for works in connection with which the equipment is installed.
- (4) The regulations are to provide for a review of the operation of regulations made under this section as soon as practicable after 5 years after the first regulations are made under this section.

**[57] Section 218 Accounts**

Omit “in an appropriate newspaper” from section 218 (2).

Insert instead “, in a manner approved by the Minister,”.

**[58] Section 283 Definitions**

Omit “that is constructed or used” from the definition of *sewage work*.

**[59] Chapter 7, Part 1, Division 2, heading**

Insert “, metering and audits” after “water”.

**[60] Section 324 Temporary water restrictions**

Omit “such as to cope with a water shortage or threat to public health or safety” from section 324 (1).

Insert instead “such as (but not limited to) to cope with a water shortage, threat to public health or safety or to manage water for environmental purposes”.

**[61] Section 326 Directions relating to metering equipment**

Insert “, use” after “replace” in section 326 (1).

**[62] Section 326 (4)**

Omit the subsection.

**[63] Sections 326A and 326B**

Insert after section 326:

**326A Compliance audits**

- (1) The Minister may, by order in writing served on the holder of an access licence or an approval, direct the holder to undertake a compliance audit to the satisfaction of the Minister.
- (2) The direction may require the audit to be undertaken by either or both the holder or a compliance auditor and may require compliance audits to be undertaken at intervals specified by the direction.
- (3) A compliance audit is an evaluation of the activities of the holder in relation to the taking of water and other activities regulated under this Act to provide information to the holder and to the persons administering this Act on compliance with legal requirements under this Act relating to those activities.
- (4) The regulations may make provision for or with respect to the following matters:
  - (a) the payment of the costs of compliance audits by holders,
  - (b) requirements for the form and content of compliance audits,
  - (c) certification of compliance audits,
  - (d) persons who are qualified to undertake compliance audits.

**326B Use of information**

- (1) Any information in an audit report or other document supplied to the Minister in connection with a compliance audit may be taken into consideration by the Minister and used for the purposes of this Act.
- (2) Without limiting the above, any such information is admissible in evidence in any prosecution of the holder of an access licence or approval for any offence (whether under this Act or otherwise).

**[64] Chapter 7, Part 1, Division 8**

Insert after Division 7 of Part 1 of Chapter 7:

**Division 8 Enforceable undertakings**

**336E Enforcement of undertakings**

- (1) The Minister may accept a written undertaking given by a person for the purposes of this section in connection with a matter in relation to which the Minister, the Ministerial Corporation, the Natural Resources Access Regulator or any other public authority has a function under this Act.
- (2) The person may withdraw or vary the undertaking at any time, but only with the consent in writing of the Minister. The consent of the Minister is required even if the undertaking purports to authorise withdrawal or variation of the undertaking without that consent.
- (3) The Minister may apply to the Land and Environment Court for an order under subsection (4) if the Minister considers that the person who gave the undertaking has breached any of its terms.
- (4) The Land and Environment Court may make all or any of the following orders if it is satisfied that the person has breached a term of the undertaking:
  - (a) an order directing the person to comply with that term of the undertaking,
  - (b) an order directing the person to pay to the State an amount not exceeding the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach,
  - (c) any order that the Court thinks appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach,
  - (d) an order requiring the person to prevent, control, abate or mitigate any actual or likely damage to the built or natural environment caused by the breach,
  - (e) an order requiring the person to make good any actual or likely damage to the built or natural environment caused by the breach,
  - (f) any other order the Court considers appropriate.
- (5) The Ministerial Corporation, the Natural Resources Access Regulator or another public authority may recommend that the Minister accept an undertaking under this section that the Ministerial Corporation, the Natural Resources Access Regulator or public authority has negotiated with a person proposing to give the undertaking in connection with a function of the public authority under this Act.

- (6) Nothing in this section prevents proceedings being brought for the contravention or alleged contravention of this Act to which the undertaking relates.

**336F Notice of decision and reasons for decision**

The Minister must give the person seeking to make an undertaking written notice of the Minister's decision to accept or reject the undertaking and of the reasons for the decision.

**[65] Section 363B Penalties**

Omit "20,000 penalty units" from section 363B (a) (i).

Insert instead "45,500 penalty units".

**[66] Section 363B (b) (i)**

Omit "10,000 penalty units". Insert instead "18,200 penalty units".

**[67] Section 363B (b) (ii)**

Omit "2,250 penalty units". Insert instead "4,550 penalty units".

**[68] Section 364A Matters to be considered in imposing penalty**

Insert "or an extreme event" after "severe water shortage" in section 364A (1) (g).

**[69] Section 364A (1) (g)**

Insert ", 49B" after "section 49A".

**[70] Section 365 Penalty notices**

Omit "Ministerial Corporation" from section 365 (5). Insert instead "Minister".

**[71] Section 367 Evidentiary certificates**

Insert at the end of section 367 (2) (v):

or

- (w) information specified in the certificate was, or was not, published under section 87D on a website approved by the Minister, or
- (x) water flows or levels of a particular part of a specified water source, or gauge readings or other specified measurements in relation to a particular part of a specified water source, were as specified in information published under section 87D, or
- (y) water was or was not taken in accordance with information published under section 87D, or
- (z) a quantity of water taken was determined by the Minister in accordance with section 60G (3),

**[72] Section 367B Rebuttable presumptions**

Insert after section 367B (1) (e):

- (e1) the fact that water is being or has been taken from a water source by the holder of an access licence gives rise to a rebuttable presumption that the water was not taken pursuant to a basic landholder right, and



**[73] Section 368 Appeals to Land and Environment Court**

Insert after section 368 (1) (m):

- (m1) a decision under section 68A (1C),
- (m2) a decision to require a compliance audit or audits,

**[74] Section 389 Delegation**

Insert after section 389 (1):

- (1A) The Minister may delegate to any person any functions conferred or imposed on the Minister under any other Act, if those functions arise because of the Minister's capacity as the Minister administering this Act or are related to that role.

**[75] Section 389 (2)**

Omit "subsection (1)". Insert instead "subsections (1) and (1A)".

**[76] Section 389 (2)**

Omit "any such function that has been delegated to the Secretary".

Insert instead "any function that has been delegated to the Secretary under this section".

**[77] Section 391B**

Insert after section 391A:

**391B Administration and transparency of water information**

- (1) Information that under this Act is required to be kept in a register is to be kept in one public register in the form and manner determined by the Minister.
- (2) Different parts of the register may be kept in different forms and manners determined by the Minister.
- (3) The register is to include information published under section 12A of the *Natural Resources Access Regulator Act 2017*.
- (4) Regulations may be made for or with respect to the following:
  - (a) the disclosure of information held on a register established under this Act,
  - (b) the keeping of registers of information authorised to be disclosed under this Act,
  - (c) the disclosure of information about water allocation accounts of individuals or corporations who hold access licences or approvals under this Act,
  - (d) the disclosure of information about the taking of water from particular water sources or from within a particular part of the State,
  - (e) the fees payable for access to information held in the register.
- (5) Information may be disclosed in accordance with a regulation made under this section despite any prohibition in, or the need to comply with a requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* (other than Part 6 of that Act)).

**[78] Section 394 Service of documents**

Insert after section 394 (1) (b):

- (b1) by email to an email address specified by the person for the service of documents of that kind, or

**[79] Section 394 (1) (c)**

Omit “or (b)”. Insert instead “, (b) or (b1) (or that manner is unavailable)”.

**[80] Section 395**

Omit the section. Insert instead:

**395 Publication of notices, orders and proclamations in authorised manner**

- (1) A requirement of this Act that a notice be published in the authorised manner is a requirement that the notice be published in a manner that the Minister is satisfied is likely to bring the notice to the attention of members of the public in the area that is affected by the notice or its subject matter.
- (2) In this section, *notice* includes an order or proclamation.

**[81] Section 398 Exclusion of Crown liability**

Insert at the end of section 398 (1) (b):

or

- (c) from the release of water for environmental purposes,

**[82] Section 398 (2A)**

Insert after section 398 (2):

- (2A) The Crown is not subject to any action, liability (including liability for defamation), claim or demand arising as a consequence of anything done under or for the purposes of section 391B or a regulation made under that section.

**Note.** The liability of other persons for any such thing is dealt with under section 397.

**[83] Section 398 (3) (d)**

Insert at the end of section 398 (3) (c):

, or

- (d) a NSW government agency.

**[84] Sections 399A and 399B**

Insert after section 399:

**399A Transfer of ownership of metering equipment**

- (1) The regulations may make provision for or with respect to the transfer of the ownership of metering equipment and associated property, rights, assets and liabilities from Water NSW or the Ministerial Corporation to holders of approvals or other persons.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the following:
- (a) matters that are ancillary to any such scheme,
- (b) the removal of metering equipment where a transfer offer is not taken up.

**399B Consultation about environmental water releases**

- (1) The regulations may make provision for or with respect to a scheme to facilitate consultation and negotiations with owners and occupiers of land, and other persons, who may be affected by proposed releases of water for environmental purposes.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the following:
  - (a) the circumstances in which the scheme will apply,
  - (b) notification of proposed releases,
  - (c) mediation of disputes, in cases where agreement is required to resolve legal or other issues relating to a proposed release.

**[85] Sections 400A and 400B**

Insert after section 400:

**400A Excluded matters**

- (1) The regulations may declare a matter that is dealt with by this Act or the regulations to be an excluded matter for the purposes of section 250C of the *Water Act 2007* of the Commonwealth in relation to:
  - (a) the whole of the Commonwealth water legislation, or
  - (b) a specified provision of that legislation, or
  - (c) that legislation other than a specified provision, or
  - (d) that legislation otherwise than to a specified extent.

**Note.** Section 250C of the *Water Act 2007* of the Commonwealth provides that if a State law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Commonwealth water legislation, then the provisions that are the subject of the declaration will not apply in relation to that matter in the State concerned.

- (2) In this section:

***Commonwealth water legislation*** has the same meaning as it has in the *Water Act 2007* of the Commonwealth.

***matter*** includes act, omission, body, person or thing.

**400B Displacement of Commonwealth water legislation**

The regulations may declare any provision of this Act to be a Commonwealth water legislation displacement provision for the purposes of section 250D of the *Water Act 2007* of the Commonwealth (either generally or specifically in relation to a provision of that Commonwealth Act).

**Note.** Section 250D of the *Water Act 2007* of the Commonwealth enables a State to displace the operation of provisions of that Act that are declared under a State law to be Commonwealth water legislation displacement provisions for the purposes of that section.

**[86] Schedule 1B Provisions relating to exit from co-held access licence**

Insert after clause 3 (2):

- (3) If an individual daily extraction component was imposed on the original licence, the water allocation accounts for the original access licence and the new access licence are to be adjusted to reflect the provisions made by this clause.

**[87] Schedule 9 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of Water Management Amendment Act 2018**

**Definition**

In this Part:

*amending Act* means the *Water Management Amendment Act 2018*.

**Existing audits and audit panels**

An audit panel appointed under section 44 (2) before the substitution of that subsection by the amending Act may continue in office for the purpose of completing an audit commenced before that substitution.

**Existing registers**

- (1) A register kept under this Act immediately before the commencement of section 391B, as inserted by the amending Act, is taken to be in a form and manner determined by the Minister under that section.
- (2) This clause does not prevent the Minister from making a further determination under that section about any such register.

**Defence**

Section 91I (3), as inserted by the amending Act, does not apply to proceedings for offences commenced before the commencement of that subsection.

**[88] Schedule 12, heading**

Insert “or orders” after “management plans”.

**[89] Schedule 12, Parts 4–7**

Insert after Part 3 of Schedule 12:

**Part 4 Amendment of Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012**

**9 Clause 42 Individual access licence account management rules for the Barwon-Darling Unregulated River Water Source**

Insert “, and assigned under section 71T of the Act from,” after “taken under” wherever occurring in clause 42 (2), (3) and (4).

**10 Clause 42 (2) (b), (3) (b) and (4) (d)**

Omit “or from” wherever occurring.

**11 Clause 51 Total daily extraction limits**

Omit the note to the clause. Insert instead:

**Note.** Options for imposing TDELs are proposed to be reviewed on or before 1 July 2019.

**12 Clause 52**

Omit the clause. Insert instead:

**52 Individual daily extraction limits**

At the commencement of this Plan, there were no individual daily extraction limits (referred to in this Plan as *IDELS*) established for access licences in these water sources.

**Note 1.** *Individual daily extraction limit* is defined in the Dictionary.

**Note 2.** IDELS are to be reviewed on or before 1 July 2019.

**13 Clause 62 General**

Omit notes 3 and 4 to the clause.

**14 Clause 78 Part 8**

Insert after clause 78 (g):

(g1) include rules for the establishment, amendment, assignment and removal of IDELS,

**15 Clause 80 Part 10**

Insert “, 71QA” after “71Q” in clause 80 (b).

**16 Clause 80, note**

Omit the note.

## **Part 5 Amendments relating to upper limit locations**

### **Division 1 Amendments to regulated river orders**

**17 Regulated river orders to be amended**

This Division amends the following regulated river orders:

- (a) *Central West Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004),
- (b) *Gwydir Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004),
- (c) *Hunter Water Management Area Regulated River Order No. 2* (Government Gazette No 82B of 26 June 2007),
- (d) *Murrumbidgee Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004),
- (e) *Murray Water Management Area Regulated River Order (Lower Darling)* (Government Gazette No 110 of 1 July 2004),
- (f) *NSW Border Rivers Regulated River Water Source Order* (Government Gazette No 79 of 29 May 2009),
- (g) *Namoi Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004),
- (h) *Regulated River Order for the Belubula Regulated River 2012* (Government Gazette No 92 of 14 September 2012),
- (i) *Regulated River Order for the Lachlan Regulated River 2012* (Government Gazette No 92 of 14 September 2012),

- (j) *Regulated River Order for the NSW Hunter Water Management Area Regulated Rivers 2016* (Government Gazette No 56 of 1 July 2016),
- (k) *Regulated River Order for the NSW Murray Regulated Rivers 2012* (Government Gazette No 19 of 15 February 2012),
- (l) *Richmond Regulated River Order 2010* (Government Gazette No 135 of 17 December 2010).

## **18 Central West Water Management Area Regulated River Order**

### **(1) Order**

Omit “downstream of the upper limit of Windamere Dam water storage or the upper limit of Burrendong Dam water storage and”.

### **(2) Schedule**

Omit “Cudgegong River from the upper limit of Windamere Dam water storage downstream to its confluence with the upper limit of Burrendong Dam water storage.”.

Insert instead:

Cudgegong River from Windamere Dam wall, being the point at latitude -32.727325 and longitude 149.771999 in decimal degrees GDA94, downstream to Burrendong Dam water storage.

Windamere Dam water storage (including all the water downstream of the following coordinates, in decimal degrees GDA94, to Windamere Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-32.811391	149.870681
-32.818051	149.854227
-32.824058	149.836131
-32.810121	149.841439
-32.814185	149.825263
-32.819009	149.846077
-32.810587	149.811243
-32.779267	149.838340
-32.782333	149.794320
-32.760703	149.805519
-32.776092	149.775742
-32.770453	149.759286
-32.761776	149.756808
-32.752008	149.767732
-32.745962	149.793078
-32.740353	149.761119
-32.728140	149.760693

(3) **Schedule**

Omit “Macquarie River from the upstream limit of Burrendong Dam water storage, downstream to the Monkeygar Creek offtake.”.

Insert instead:

Macquarie River from Burrendong Dam wall, being the point at latitude -32.66674 and longitude 149.10902 in decimal degrees GDA94, downstream to the Monkeygar Creek offtake.

Burrendong Dam water storage (including all the water downstream of the following coordinates, in decimal degrees GDA94, to Burrendong Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-32.871744	149.213174
-32.834042	149.207933
-32.814764	149.219303
-32.833629	149.250251
-32.782423	149.184678
-32.771026	149.151583
-32.736556	149.213184
-32.731542	149.235164
-32.716252	149.196807
-32.687090	149.175187
-32.714061	149.117249
-32.696985	149.085635
-32.610695	149.135805
-32.647185	149.224616
-32.636815	149.257351
-32.620199	149.247056
-32.624635	149.273776
-32.671702	149.084504
-32.717326	149.130410
-32.668750	149.158276
-32.660058	149.155925
-32.901336	149.228041

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**19 Gwydir Water Management Area Regulated River Order**

(1) **Order**

Omit “downstream of the upper limit of Copeton Dam water storage and”.

(2) **Schedule**

Omit “Gwydir River from Copeton Dam downstream to northwestern boundary of portion 27, Parish of Gin, County of Benarba.”.

Insert instead:

Gwydir River from Copeton Dam wall, being the point at latitude -29.906596 and longitude 150.927266 in decimal degrees GDA94, downstream to the northwestern boundary of portion 27, Parish of Gin, County of Benarba.

Copeton Dam water storage (including all the water downstream of the following coordinates, in decimal degrees GDA94, to Copeton Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-30.003197	150.982829
-30.001384	150.973391
-29.977928	150.991369
-29.957905	150.972530
-29.948338	150.961377
-29.933781	151.011764
-29.924970	151.019530
-29.910007	151.017738
-29.898243	151.028021
-29.887985	151.018875
-29.873349	150.995589
-29.882027	150.968586
-29.881021	150.953199
-29.880425	150.931838
-29.890985	150.910140

**20 Hunter Water Management Area Regulated River Order No. 2**

(1) **Order**

Omit “downstream of the upper limit of Lostock Dam water storage and”.

(2) **Schedule 1**

Omit the Schedule. Insert instead:

**Schedule 1**

Paterson River from Lostock Dam wall, being the point at latitude -32.328844 and longitude 151.450099 in decimal degrees GDA94, downstream to the determined tidal limit, which is 410 metres downstream from a point adjacent to where the north-eastern corner of Lot 115, DP 848634, Parish of Barford, County of Durham, fronts the eastern bank of the Paterson River.

Lostock Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Lostock Dam wall):



<b>Latitude</b>	<b>Longitude</b>
-32.322211	151.425521
-32.325743	151.439159
-32.339434	151.424865
-32.344165	151.437603
-32.339274	151.445692
-32.337965	151.450254
-32.335117	151.457577

---

**21 Murrumbidgee Water Management Area Regulated River Order**

(1) **Order**

Omit “downstream of the upper limit of Burrinjuck Dam water storage or Blowering Dam and”.

(2) **Schedule**

Omit “Murrumbidgee River from Taemas Bridge within the storage of Burrinjuck Dam, downstream to the Murray River.”.

Insert instead:

Murrumbidgee River from Burrinjuck Dam wall, being the point at latitude -35.00284 and longitude 148.583817, downstream to the Murray River.

Burrinjuck Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Burrinjuck Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-35.003371	148.849389
-35.005853	148.830107
-34.949024	148.832598
-34.922416	148.823510
-34.904668	148.796551
-34.964027	148.774932
-34.920111	148.724999
-34.892967	148.737287
-34.876506	148.768171
-34.876913	148.782918
-34.879415	148.782675
-34.965045	148.755451
-34.984244	148.697525
-34.995874	148.683923
-34.969135	148.632485

<b>Latitude</b>	<b>Longitude</b>
-35.018053	148.661473
-35.044238	148.669648
-35.092597	148.682148
-35.105789	148.679919
-35.073652	148.672281
-35.062604	148.665532
-35.050545	148.676945
-34.990525	148.610208
-34.989634	148.595715
-35.023671	148.599408

---

(3) **Schedule**

Omit “Tumut River from the upper limit of the storage of Blowering Dam downstream to the Murrumbidgee River”.

Insert instead:

Tumut River from Blowering Dam wall, being the point at latitude -35.40047 and longitude 148.244146, downstream to the Murrumbidgee River.

Blowering Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Blowering Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-35.561163	148.306432
-35.545218	148.301639
-35.531393	148.293032
-35.561765	148.238722
-35.548750	148.228634
-35.504216	148.271602
-35.491235	148.233281
-35.488285	148.270351
-35.474806	148.241747
-35.472170	148.278026
-35.462686	148.280791
-35.450776	148.240958
-35.435572	148.285557
-35.434480	148.243201
-35.415237	148.272950
-35.419780	148.235559
-35.404595	148.270365

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**22 Murray Water Management Area Regulated River Order (Lower Darling)**

**Order**

Omit “downstream of the upper limit of Lake Wetherell water storage and”.

**23 NSW Border Rivers Regulated River Water Source Order**

**Schedule 1**

Omit “Severn River, from Pindari Dam downstream to its junction with the Macintyre River.”.

Insert instead:

Severn River from Pindari Dam wall, being the point at latitude -29.387689 and longitude 151.245184 in decimal degrees GDA94, downstream to its junction with the Macintyre River.

Pindari Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Pindari Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-29.410713	151.333721
-29.394919	151.326964
-29.383454	151.318099
-29.397437	151.300012
-29.376505	151.291200
-29.366651	151.270775
-29.370563	151.255536
-29.365349	151.233787
-29.401966	151.293014

**24 Namoi Water Management Area Regulated River Order**

(1) **Order**

Omit “downstream of the upper limit of Split Rock Dam water storage or Keepit Dam water storage and”.

(2) **Schedule**

Omit the following:

Manilla River from Split Rock Dam, downstream to its junction with the Namoi River.

Namoi River, from its junction with the Manilla River to Keepit Dam, including all tributaries (named and unnamed) to the storage of Keepit Dam, and up to the high water mark of the storage.

Namoi River, from Keepit Dam downstream to the offtake of Narrabri Creek.

Insert instead:

Manilla River from Split Rock Dam wall, being the point at latitude -30.575872 and longitude 150.697240 in decimal degrees GDA94, downstream to its junction with the Namoi River.

Split Rock Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Split Rock Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-30.432084	150.700594
-30.430054	150.678370
-30.451556	150.688350
-30.456521	150.704523
-30.479991	150.697527
-30.488379	150.693033
-30.472202	150.716278
-30.489548	150.725471
-30.513168	150.698369
-30.519752	150.715638
-30.534438	150.716575
-30.523353	150.676778
-30.522879	150.664067
-30.534635	150.706668
-30.583463	150.709977

Namoi River, from its junction with the Manilla River downstream to Keepit Dam water storage.

Keepit Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Keepit Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-30.788642	150.570964
-30.778018	150.567687
-30.769567	150.553783
-30.809162	150.566018
-30.820146	150.551936
-30.778773	150.531650
-30.784563	150.521501

<b>Latitude</b>	<b>Longitude</b>
-30.791914	150.517708
-30.798574	150.509822
-30.814782	150.496955
-30.841291	150.552179
-30.829995	150.491038
-30.834460	150.479529
-30.837882	150.478756
-30.862795	150.478484

---

Namoi River from Keepit Dam wall, being the point at latitude -30.878622 and longitude 150.491625 in decimal degrees 5DA94, downstream to the offtake of Narrabri Creek.

**25 Regulated River Order for the Belubula Regulated River 2012**

**Schedule 1**

Omit the Schedule. Insert instead:

**Schedule 1**

Belubula River from Carcoar Dam wall, being the point at latitude -33.619085 and longitude 149.18005 in decimal degrees GDA94, downstream to its junction with the Regulated Lachlan River.

Carcoar Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Carcoar Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-33.576020	149.242979
-33.598026	149.222586
-33.611107	149.198919
-33.575159	149.224422

---

**26 Regulated River Order for the Lachlan Regulated River 2012**

**Schedule 1**

Omit items 7–9. Insert instead:

7. Lachlan River from Wyangala Dam wall, being the point at latitude -33.969787 and longitude 148.951823 in decimal degrees GDA94, downstream to the Murrumbidgee River.
8. Wyangala Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Wyangala Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-34.052206	149.036233

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<b>Latitude</b>	<b>Longitude</b>
-34.049494	149.045616
-34.002150	149.080865
-33.994397	149.083129
-33.994273	149.081477
-33.987058	149.054747
-33.980610	149.047093
-33.957108	149.028854
-33.904295	148.981630
-33.909158	148.970521
-33.948079	148.965834
-34.000431	148.974679
-33.902762	149.138943
-33.919014	149.039291
-33.915237	149.059200
-33.905190	149.071142
-33.922213	149.096824
-33.892613	149.104912
-33.886798	149.119798
-33.887198	149.065994
-33.885542	149.059389

**27 Regulated River Order for the NSW Hunter Water Management Area Regulated Rivers 2016**

**Schedule 1**

Omit items 3–6. Insert instead:

- 3.** Glennies Creek from Glennies Creek Dam wall, being the point at latitude -32.361941 and longitude 151.249747, downstream to the confluence of Glennies Creek with Hunter River.
- 4.** Glennies Creek Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Glennies Creek Dam wall):

<b>Latitude</b>	<b>Longitude</b>
-32.287472	151.266599
-32.300972	151.256985
-32.306524	151.252396
-32.297512	151.299214
-32.309309	151.301546
-32.331923	151.310492

Latitude	Longitude
-32.349234	150.296217
-32.375406	151.279140
-32.350293	151.249333

**5.** Hunter River from Glenbawn Dam wall, being the point at latitude -32.107697 and longitude 151.000344 in decimal degrees GDA94, downstream to the point at latitude -32.686680 and longitude 151.561340 in decimal degrees GDA94, Parish of Maitland, County of Northumberland.

**6.** Glenbawn Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Glenbawn Dam wall):

Latitude	Longitude
-32.015506	151.087500
-32.018712	151.087910
-32.019961	151.070256
-32.034656	151.073531
-32.045671	151.061744
-32.023105	151.051791
-32.043603	151.055119
-32.052615	151.035640
-32.066942	151.007051
-32.097867	151.020588
-32.116285	151.006530

**28 Regulated River Order for the NSW Murray Regulated Rivers 2012**

**Clause 4 Regulated rivers**

Omit item 38. Insert instead:

**38.** Murray River from Hume Dam wall, being the point at latitude -36.107878 and longitude 147.03172 in decimal degrees GDA94, downstream to the South Australian border,

**38A.** Hume Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Hume Dam wall):

Latitude	Longitude
-36.006354	147.354450
-36.027898	147.278647
-35.988915	147.150799
-35.965408	147.091362

Latitude	Longitude
-35.942829	147.057470
-35.937462	147.032817
-35.968634	147.037428
-36.002457	147.053119

---

**38B.** That part of the Murray River adjacent to the southern boundary of Lot 51, DP 753357, Parish of Vautier, County Goulburn,

**29 Richmond Regulated River Order 2010**

**Schedule 1**

Omit “Iron Pot Creek from the high water mark of Toonumbar Dam to its confluence with Eden Creek.”.

Insert instead:

Iron Pot Creek from Toonumbar Dam wall, being the point at latitude -28.620195 and longitude 152.791892 in decimal degrees GDA94, to its confluence with Eden Creek.

Toonumbar Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Toonumbar Dam wall):

Latitude	Longitude
-28.587983	152.752535
-28.590374	152.752713
-28.594637	152.756531
-28.595934	152.754548
-28.603582	152.755797
-28.605508	152.757218
-28.600453	152.762434
-28.604217	152.760220
-28.601712	152.769144
-28.605501	152.770471
-28.604215	152.776476
-28.605782	152.782041
-28.612889	152.780112
-28.512744	152.786820

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**Division 2 Amendments to water sharing plans**

**30 Water Sharing Plan for the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources 2011**

**Clause 4 Application of this Plan**

Omit “the upper limit of” wherever occurring in clause 4 (3) (a) and (c).



**31 Water Sharing Plan for the Belubula Regulated River Water Source 2012**

**Clause 4 Application of this Plan**

Omit “upper limit of” from clause 4 (3) (a).

**32 Water Sharing Plan for the Gwydir Regulated River Water Source 2016**

**Clause 4 Water source and waters to which this Plan applies**

Insert “water storage” after “Copeton Dam” in clause 4 (1).

**33 Water Sharing Plan for the Hunter Regulated River Water Source 2016**

**(1) Clause 4 Application of Plan**

Omit clause 4 (2) (a). Insert instead:

- (a) all water between the bed and banks of all rivers, from the Glenbawn Dam water storage downstream to the Hunter River, and from Glennies Creek Dam water storage downstream to the junction with the Hunter River, which have been declared by the Minister to be regulated rivers, and

**(2) Schedule 1 Management zones, flow reference points and trading zones**

Omit the matter relating to Management Zone 1A and Management Zone 3A from Columns 1 and 2 of the table to clause 1.

Insert instead in appropriate order:

Management Zone 1A (Glenbawn Dam water storage and Hunter River to Goulburn River junction)	From Glenbawn Dam water storage down to, and including, the Goulburn River junction
Management Zone 3A (Glennies Creek Dam water storage and Glennies Creek)	From Glennies Creek Dam water storage downstream to the Hunter River junction

**(3) Schedule 1, clause 2, table**

Omit the matter relating to trading zones 1 and 3 from Columns 1 and 2 of the table.

Insert instead in appropriate order:

1	All of the Hunter Regulated River Water Source from Glenbawn Dam water storage down to, and including, the junction of the Hunter River and Glennies Creek
3	All of the Hunter Regulated River Water Source from Glennies Creek Dam water storage down to the junction of the Hunter River and Glennies Creek

**(4) Appendix 1 Rivers and lakes in the Hunter Regulated River Water Source**

Omit paragraphs (c)–(f). Insert instead:

- (c) Glennies Creek from Glennies Creek Dam wall downstream to the confluence of Glennies Creek with Hunter River,  
(d) Glennies Creek Dam water storage,  
(e) Hunter River from Glenbawn Dam wall downstream to the point at latitude -32.686680 and longitude 151.561340 in

decimal degrees GDA94, Parish of Maitland, County of Northumberland,

- (f) Glenbawn Dam water storage,

**34 Water Sharing Plan for the Lachlan Regulated River Water Source 2016**

(1) **Clause 4 Application of Plan**

Omit “upper limits of” from clause 4 (2) (a).

(2) **Appendix 1 Rivers and lakes in the regulated river order**

Omit paragraphs (g)–(i). Insert instead:

- (g) Lachlan River from Wyangala Dam wall, being the point at latitude -33.969787 and longitude 148.951823 in decimal degrees GDA94, downstream to the Murrumbidgee River,  
(h) Wyangala Dam water storage,

**35 Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016**

(1) **Clause 4 Water source and waters to which this Plan applies**

Omit “the upstream limit of” from clause 4 (1).

(2) **Clause 14 Planned environmental water**

Insert “water storage” after “Windamere Dam” wherever occurring in clause 14 (2) and (8).

(3) **Clause 14 (2)**

Omit “the Dam”. Insert instead “the water storage”.

(4) **Clauses 14 (8) and (12) (h) (ii) and 44 (2) (a)**

Omit “the upper limit of” wherever occurring.

(5) **Clause 47 Extraction of water under supplementary water access licences**

Omit “downstream of the upper limit of” from clause 47 (5).

Insert instead “from, and downstream of”.

(6) **Appendix 1 Rivers and lakes in the Macquarie and Cudgegong Regulated Rivers Water Source**

Omit paragraph (i) where firstly occurring. Insert instead:

- (i) Macquarie River from Burrendong Dam wall, being the point at latitude -32.66674 and longitude 149.10902 in decimal degrees GDA94, downstream to the Monkeygar Creek offtake,

(7) **Appendix 1, paragraph (vi)**

Omit the paragraph. Insert instead:

- (vi) Cudgegong River from Windamere Dam wall, being the point at latitude -32.727325 and longitude 149.771999 in decimal degrees GDA94, downstream to Burrendong Dam water storage,

(8) **Appendix 1, paragraph (xia)**

Insert after paragraph (xi):

(xia) Burrendong Dam water storage,

**36 Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2016**

(1) **Clause 4 (2) (a) (including note 2) and Appendix 1**

Omit “the upper limit of”, wherever occurring.

(2) **Appendix 1, paragraphs (r) and (r1)**

Omit paragraph (r). Insert instead:

(r) Murrumbidgee River from Burrinjuck Dam wall, being the point at latitude -35.00284 and longitude 148.583817 in decimal degrees GDA94, downstream to the Murray River,

(r1) Burrinjuck Dam water storage,

(3) **Appendix 1, paragraphs (w) and (w1)**

Omit paragraph (w). Insert instead:

(w) Tumut River from Blowering Dam wall, being the point at latitude -35.40047 and longitude 148.244146 in decimal degrees GDA94, downstream to the Murrumbidgee River,

(w1) Blowering Dam water storage,

**37 Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016**

(1) **Clause 4 Application of Plan**

Omit “the upper limit of” wherever occurring in clause 4 (2) (a) and (3) (a).

(2) **Appendix 1 Rivers and lakes in the regulated river orders**

Omit paragraph (al) from clause (1). Insert instead:

(al) Murray River from Hume Dam wall, being the point at latitude -36.107878 and longitude 147.03172 in decimal degrees GDA94, downstream to the South Australian border,

(aal) Hume Dam water storage,

(aaal) that part of the Murray River adjacent to the southern boundary of Lot 51, DP 753357, Parish of Vautier, County Goulburn,

**38 Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009**

**Clause 4 Water source and waters to which this Plan applies**

Omit clause 4 (1) (a) and (b). Insert instead:

(a) the Pindari Dam water storage downstream to the Pindari Dam wall,

(b) the Severn River from Pindari Dam wall downstream to its junction with the Macintyre River,

**39 Water Sharing Plan for the Paterson Regulated River Water Source 2007**

(1) **Clause 4 Area and waters to which this Plan applies**

Omit “the upper limit of” from clause 4 (3) (a).

(2) **Appendix 1**

Omit the Appendix. Insert instead:

**Appendix 1 Rivers in the Paterson Regulated River Water Source**

Paterson River from Lostock Dam wall, being the point at latitude -32.328844 and longitude 151.450099 in decimal degrees GDA94, downstream to the determined tidal limit, which is 410 metres downstream from a point adjacent to where the north-eastern corner of Lot 115, DP 848634, Parish of Barford, County of Durham, fronts the eastern bank of Paterson River.

Lostock Dam water storage.

**40 Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010**

**Clause 4 Application of this Plan**

Omit “the upper limit of” from clause 4 (3).

**41 Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010**

**Clause 4 Application of Plan**

Omit “upper limit of” from clause 4 (4).

**42 Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016**

(1) **Clause 4 Water sources and waters to which this Plan applies**

Omit “Split Rock Dam downstream to Keepit Dam” from clause 4 (2).

Insert instead “Split Rock Dam water storage downstream to Keepit Dam water storage”.

(2) **Clause 4 (3)**

Insert “water storage” after “Keepit Dam”.

(3) **Appendix 1 Rivers and lakes within this water source**

Omit subclauses (1) and (2) from the matter relating to *Upper Namoi Regulated River Water Source*.

Insert instead:

(1) Manilla River from Split Rock Dam wall, being the point at latitude -30.575872 and longitude 150.669724 in decimal degrees GDA94, downstream to its junction with the Namoi River,

(2) Split Rock Dam water storage,

(3) Namoi River, from its junction with the Manilla River downstream to Keepit Dam water storage,

(4) Keepit Dam water storage.

(4) **Appendix 1, Lower Namoi Regulated River Water Source, subclause (5)**

Omit the subclause. Insert instead:

- (5) Namoi River from Keepit Dam wall, being the point at latitude -30.900503 and longitude 150.513171 in decimal degrees GDA94, downstream to the offtake of Narrabri Creek,

### **Division 3 References to upper limit in repealed orders**

#### **43 References in orders preceding the 2016 Hunter Order**

- (1) A reference to “Glennies Creek from the upper limit of the Glennies Creek Dam water storage, including all tributaries to the storage (named and unnamed) up to high water mark of the storage, downstream to the confluence of Glennies Creek with the Hunter River” in the First Hunter Order and the Second Hunter Order is taken to be a reference to items 3 and 4 of Schedule 1 to the 2016 Hunter Order, as amended by this Part.
- (2) A reference to “Hunter River from the upper limit of Glenbawn Dam water storage, including all tributaries to the storage (named and unnamed) up to high water mark of the storage, downstream to the Oakhampton Rail Bridge at Maitland” in the First Hunter Order is taken to be a reference to items 5 and 6 of Schedule 1 to the 2016 Hunter Order, as amended by this Part.
- (3) A reference to “Hunter River from the upper limit of Glenbawn Dam water storage, including all tributaries to the storage (named and unnamed) up to high water mark of the storage, downstream to a point adjacent to the eastern boundary of Lot 2, DP 1012258, Parish of Maitland, County of Northumberland on the southern bank of the River and adjacent to a point 150m downstream of the western boundary of Lot 1, DP 856702, Parish of Middelhope, County of Durham on the northern bank of the River, 1400m upstream of Oakhampton rail bridge” in the Second Hunter Order is taken to be a reference to items 5 and 6 of Schedule 1 to the 2016 Hunter Order, as amended by this Part.
- (4) In this clause:  
**First Hunter Order** means the *Hunter Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004).  
**Second Hunter Order** means the *Hunter Water Management Area Regulated River Order No. 1* (Government Gazette No 179 of 12 November 2004).  
**2016 Hunter Order** means the *Regulated River Order for the NSW Hunter Water Management Area Regulated Rivers 2016* (Government Gazette No 56 of 1 July 2016).

#### **44 References in orders preceding the 2012 Lachlan Order**

- (1) A reference to the “upper limit of Wyangala Dam storage” in the 2004 Lachlan Order is taken to be a reference to Wyangala Dam water storage as described in item 8 of Schedule 1 to the 2012 Lachlan Order, as amended by this Part.
- (2) In this clause:  
**2004 Lachlan Order** means the *Lachlan Water Management Area Regulated River Order* (Government Gazette No 110 of 1 July 2004).  
**2012 Lachlan Order** means the *Regulated River Order for the Lachlan Regulated River 2012* (Government Gazette No 92 of 14 September 2012).

**45 References in orders preceding the 2012 Murray Order**

- (1) A reference to the “upper limit of Hume Dam water storage” in the 2004 Murray Order is taken to be a reference to Hume Dam water storage as described in item 38A of clause 4 of the 2012 Murray Order, as amended by this Part.
- (2) In this clause:  
*2004 Murray Order* means the *Murray Water Management Area Regulated River Order (Murray)* (Government Gazette No 110 of 1 July 2004).  
*2012 Murray Order* means the *Regulated River Order for the NSW Murray Regulated Rivers 2012* (Government Gazette No 19 of 15 February 2012).

**Division 4 Additional provisions**

**46 Commencement of amendments**

- (1) Clauses 18, 19, 21, 22 and 24 are taken to have commenced on 1 July 2004.
- (2) Clause 20 is taken to have commenced on 26 June 2007.
- (3) Clauses 23 and 38 are taken to have commenced on 1 July 2009.
- (4) Clauses 25 and 26 are taken to have commenced on 14 September 2012.
- (5) Clauses 27, 32–37 and 42 are taken to have commenced on 1 July 2016.
- (6) Clause 28 is taken to have commenced on 15 February 2012.
- (7) Clauses 29 and 41 are taken to have commenced on 17 December 2010.
- (8) Clause 30 is taken to have commenced on 1 April 2011.
- (9) Clause 31 is taken to have commenced on 4 October 2012.
- (10) Clause 39 is taken to have commenced on 1 July 2007.
- (11) Clause 40 is taken to have commenced on 1 July 2010.

**47 Regulated river orders to be amended**

The regulations may further amend the regulated river orders amended by Division 1 of this Part and made by Part 7 for the purpose of specifying the location of the limits of certain rivers referred to in those orders.

**48 Management plans to be amended**

The regulations may further amend the management plans amended by Division 2 of this Part for the purpose of specifying the location of the limits of certain rivers referred to in those plans.

**49 Commencement of amendments and validation**

Any amendments made by a regulation under this Part may take effect from 1 July 2004 or such other date (being an earlier or later date) as is specified by the regulations.

**50 Savings, transitional and other provisions**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the amendments made under this Part.
- (2) Any act, matter or thing done or omitted to be done before the amendment of an order or a management plan by this Part that would have been valid if that

order or management plan, as so amended, had been in force when the thing was done or omitted to be done is validated.

- (3) No compensation is payable to any person as a consequence of the operation of this Part.
- (4) The regulations may deem references in a predecessor order (including an order that preceded the immediately preceding order) of an order amended by or under this Part to the location of the limits of certain rivers to be taken to be references as specified in the regulations.
- (5) Any such regulation may deem that reference to have taken effect on and from the date of commencement of the predecessor order or a later date.
- (6) In this clause, *compensation* includes damages or any other form of monetary compensation.

## **Part 6 Amendment relating to the active sharing of flows**

### **51 Management plans to be amended**

This Part applies to the following management plans:

- (a) *Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012*,
- (b) *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012*,
- (c) *Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012*.

### **52 Amendment of management plans relating to the management of active sharing of flows**

Each management plan to which this Part applies is amended by inserting as the final paragraph (with appropriate numbering) in the clause titled "Part 8" in Part 12 the following paragraph:

include rules to facilitate active management to share flows, including requiring the taking of water to be carried out in accordance with Ministerial notices or announcements or to require licence holders to express interest in accessing their entitlement during an event.

## **Part 7 Bega and Brogo and Peel Valley Orders**

### **53 Making of Bega and Brogo Order**

- (1) The *Regulated River Order for the Bega and Brogo Regulated Rivers 2018 (the Bega and Brogo Order)* containing the clauses set out below is taken to have been made by the Minister in accordance with this Act:

#### **1 Name of Order**

This Order is the *Regulated River Order for the Bega and Brogo Regulated Rivers 2018*.

#### **2 Declaration of regulated rivers**

The following rivers are declared to be regulated rivers for the purposes of the *Water Management Act 2000* under this Order:

- (a) Bega River, from 500 metres upstream of its junction with the Brogo River, downstream to its junction with Jellat Jellat Creek,
- (b) Brogo River, from Brogo Dam wall, which is the point of latitude -36.488680 and longitude 149.740350, in decimal degrees GDA94, down stream to its junction with the Bega River,
- (c) Coopers Creek, from its junction with the Brogo River up to and including the lagoon section within Portion 97, Parish of Bega,
- (d) Brogo Dam water storage (including all water downstream of the following coordinates, in decimal degrees GDA94, to Brogo Dam wall):

Latitude	Longitude
-36.469614	149.698707
-36.468510	149.705187
-36.464538	149.716953
-36.473023	149.721948
-36.477831	149.719258
-36.479591	149.726371
-36.482022	149.720763
-36.484526	149.729929
-36.491189	149.718921
-36.494395	149.731010
-36.484761	149.735077
-36.490772	149.742066
-36.492307	149.739054
-36.494696	149.741781

- (2) The Bega and Brogo Order is taken to have effect on and from 1 July 2011.

#### 54 Making of Peel Valley Order

- (1) The *Regulated River Order for the Peel Valley Regulated Rivers 2018 (the Peel Valley Order)* containing the clauses set out below is taken to have been made by the Minister in accordance with this Act:

##### 1 Name of Order

This Order is the *Regulated River Order for the Peel Valley Regulated Rivers 2018*.

##### 2 Declaration of regulated rivers

The following rivers are declared to be regulated rivers for the purposes of the *Water Management Act 2000* under the Peel Valley Order:

- (a) Peel River from Chaffey Dam wall, being the point at latitude -31.346746 and longitude 151.138965 in decimal



degrees GDA94, downstream to its junction with the Namoi River,

- (b) Peel River from the offtake of Calala anabranch, within Portion 24, Parish of Nemingha, County of Parry, downstream to its point of re-entry within Portion 1, Parish of Nemingha, County of Parry,
- (c) anabranch of the Peel River, which offtakes from within Portion 33, Parish of Nemingha, County of Parry, to its point of re-entry within Portion 69, Parish of Nemingha, County of Parry,
- (d) anabranch of the Peel River, which offtakes from and re-enters the Peel River within Lot 11, Australian Agricultural Company's grant, Parish of Tangarratta, County of Parry,
- (e) anabranch of the Peel River, which offtakes from within Portion 2, Parish of Baldwin, County of Darling to its point of re-entry within Portion 55, Parish of Keepit, County of Darling.

(2) The Peel Valley Order is taken to have effect on and from 1 July 2010.

#### **55 Savings and transitional provisions**

- (1) Any act, matter or thing done or omitted to be done before the commencement of this Part that would have been valid if the Bega and Brogo Order or the Peel Valley Order had been in force when the act, matter or thing was done or omitted to be done is validated.
- (2) No compensation is payable to any person as a consequence of the operation of this clause.
- (3) In this clause, *compensation* includes damages or any other form of monetary compensation.

#### **[90] Dictionary**

Omit the definition of *appropriate newspaper*. Insert in alphabetical order:  
*authorised manner*—see section 395.

#### **[91] Dictionary**

Insert after paragraph (b) of the definition of *assignment dealing*:

- (c) an assignment of the whole or part of one or more individual daily extraction components as referred to in section 71QA.

#### **[92] Dictionary**

Insert in alphabetical order:

*Basin management area* means a water management area that is part of a water resource plan area under the *Water Act 2007* of the Commonwealth.

*Basin management plan* means a management plan that applies to a Basin management area or to part of the Basin water resources.

*duly qualified person* means a person who has the qualifications, skills and experience to carry out work in connection with metering equipment that are prescribed by the regulations.

*extreme event* means any of the following events:

- (a) an extreme dry period,

- (b) a water quality event of an intensity, magnitude and duration that is sufficient to render water acutely toxic or unusable for established local uses and values,
- (c) any other type of event that has resulted in the suspension of a water management plan under this Act or in the last 50 years of a plan that deals with water allocation and is made under any other Act.

*individual daily extraction component*—see section 71QA (1).

**[93] Dictionary, definition of “drainage work”**

Omit “that is constructed or used”.

**[94] Dictionary, definition of “Ministerial action”**

Insert after paragraph (d):

- (d1) the amendment of the share component of a specific purpose access licence, the grant of an access licence or the withdrawal of the nomination of a work under section 68A,

**[95] Dictionary, definition of “water bore”**

Omit “that is used”.

**[96] Dictionary, definition of “water supply work”**

Omit “that is constructed or used” wherever occurring.

## **Schedule 2 Amendment of other Acts**

### **2.1 Land and Environment Court Act 1979 No 204**

#### **Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement**

Omit “and 336” from section 20 (1) (df1). Insert instead “, 336 and 336E”.

### **2.2 Local Government Act 1993 No 30**

#### **Section 733—Exemption from liability flood liable land, land subject to risk of bushfire and land in coastal zone**

Insert “or the exercise of its functions in any part of the State in connection with the granting of flood work approvals under the *Water Management Act 2000*” after “*Water NSW Act 2014*” in section 733 (7) (e).

### **2.3 Natural Resources Access Regulator Act 2017 No 64**

#### **[1] Section 12A**

Insert after section 12:

#### **12A Register of information about water enforcement action**

- (1) The Regulator may keep, and may make publicly available, a register of information about enforcement actions taken by or on behalf of the Regulator under the *Water Management Act 2000*.
- (2) The register may include the following information:
  - (a) the identities of persons on whom penalties have been imposed under sections 60G, 78 and 109 of the *Water Management Act 2000* and the penalties imposed,
  - (b) the identity of any person to whom a penalty notice has been issued in respect of an offence under that Act and particulars of the offence,
  - (c) particulars of any direction issued by the Regulator under Part 1 of Chapter 7 of that Act and the identities of any persons to whom the direction is given,
  - (d) particulars of any decision to suspend or cancel an access licence under section 78 of that Act or to suspend or cancel an approval under section 109 of that Act,
  - (e) any other information prescribed by the regulations for the purposes of this section.
- (3) Regulations may be made for or with respect to the register kept under this section.
- (4) Information may be disclosed in accordance with a regulation made under this section despite any prohibition in, or the need to comply with a requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* (other than Part 6 of that Act)).
- (5) No liability (including liability for defamation) is incurred by a person or the Crown for publishing in good faith information in a register under this section.

**[2] Section 16 Exchange of information and records between relevant agencies**

Insert after paragraph (c) of the definition of *relevant agency* in section 16 (1):

- (d) any other person or body (including an officer or agency of the Commonwealth or another State or Territory) prescribed by the regulations for the purposes of this definition.

**[3] Section 16 (2)**

Insert “or the administration or enforcement of the *Water Act 2007* of the Commonwealth” after “natural resources management legislation”.

**2.4 Water Act 1912 No 44**

**[1] Section 118A Drillers to be licensed**

Omit the section.

**[2] Section 129 Regulations**

Omit section 129 (1) (g).

**[3] Section 129A Application of Part**

Omit “(section 118A excepted)”.

**2.5 Water Management Amendment Act 2010 No 133**

**Schedule 2 Other amendments to Water Management Act 2000 No 92**

Omit Schedule 2 [36].

[Second reading speech made in—

Legislative Council on 6 June 2018

Legislative Assembly on 20 June 2018]