



New South Wales

Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources Order 2010

under the

Water Management Act 2000

I, the Minister for Water, in pursuance of section 50 of the *Water Management Act 2000*, do, by this Order, make the following Minister's Plan for the Towamba River Unregulated and Alluvial Water Sources.

Dated this 14th day of December, 2010.

PHILLIP COSTA
Minister for Water

Explanatory note

Section 50 (1) of the *Water Management Act 2000* provides that the Minister may, by order published on the NSW legislation website, make a Minister's plan:

- (a) for any part of the State that is not within a water management area, or
- (b) for any water management area or water source, or part of a water management area or water source, for which a management plan is not in force, or
- (c) for any water management area or water source, or part of a water management area or water source, for which a management plan is in force, but only so as to deal with matters not dealt with by the management plan.

The purpose of this Order is to make the *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010*.

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Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010

Part 1 Introduction

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

1 Name of this Plan

This Plan is the *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010* (hereafter **this Plan**).

2 Nature and Status of this Plan

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

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

3 Commencement of this Plan

This Plan commences on 17 December 2010.

Notes.

1 In accordance with section 43 of the Act, this Plan will have effect for:

- (a) 10 years from the date of commencement - if the Plan commenced on 1 July; or
- (b) 10 years from 1 July next after the date of commencement - if the Plan commenced on a date other than 1 July.

2 The Minister may extend this Plan for a further period of 10 years after the plan is due to expire, in accordance with section 43A of the Act.

4 Application of this Plan

- (1) This Plan applies to the following water sources (hereafter **these water sources**) within the South East Water Management Area:
 - (a) Upper Towamba River Water Source;

- (b) Jingo Creek Water Source;
- (c) Pericoe Creek Water Source;
- (d) Wog Wog River Water Source;
- (e) Lower Towamba River Water Source;
- (f) Myrtle Creek Water Source;
- (g) Mataganah Creek Water Source;
- (h) Stockyard Creek Water Source;
- (i) Far South Coast Water Source;
- (j) Wonboyn River Water Source;
- (k) Green Cape Water Source;
- (l) Towamba Estuary Tributaries Water Source;
- (m) Nullica River Water Source;
- (n) Eden Tributaries Water Source;
- (o) Curalo Lake and Tributaries Water Source;
- (p) Pambula Lake Tributaries Water Source;
- (q) Merimbula Lake Tributaries Water Source;
- (r) Merimbula Creek Water Source;
- (s) Tura Beach Tributaries Water Source;
- (t) Sandy Beach Creek Water Source;
- (u) Bondi Lake and Tributaries Water Source; and
- (v) Wallagoot Lake and Tributaries Water Source.

Note. The South East 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 registered map called The Towamba River Unregulated and Alluvial Water Sources held by the NSW Office of Water (hereafter the **Registered Map**).

Note. An overview of the Registered Map is shown in Appendix 1. Copies of the Registered Map may be inspected at offices listed in Appendix 2.

- (3) Subject to subclause (4), these water sources include all water:
- (a) occurring naturally on the surface of the ground shown on the Registered Map;
 - (b) in rivers, lakes, estuaries and wetlands in these water sources; and
 - (c) contained within all alluvial sediments below the surface of the ground shown on the Registered Map (hereafter **these alluvial sediments**).
- (4) These water sources do not include water contained in:
- (a) the coastal sands;
 - (b) any fractured rocks or porous rocks; and
 - (c) the area of land below the mangrove limit in the:
 - (i) Towamba Estuary Tributaries Water Source;
 - (ii) Nullica River Water Source;
 - (iii) Pambula Lake Tributaries Water Source; and
 - (iv) Merimbula Lake Tributaries Water Source.

5 Management Zones

For the purposes of this Plan, these water sources are not divided into management zones.

6 Extraction management units in these water sources

- (1) This Plan establishes the following extraction management units (hereafter **the EMUs**):
- (a) Towamba River Extraction Management Unit which applies to the water sources specified in item (a) of Column 2 of Table A;

- (b) Wonboyn-Merrica Rivers Catchment Extraction Management Unit which applies to the water sources specified in item (b) of Column 2 of Table A; and
- (c) Pambula River Extraction Management Unit which applies to the water sources specified in item (c) of Column 2 of Table A.

(2) The EMUs are shown on the Registered Map.

Note. A long-term average annual extraction limit is established in Part 6 of this Plan for each extraction management unit. The long-term average annual extraction limit determines the maximum volume of water that may be extracted under access licences from all water sources within the extraction management unit on a long-term average annual basis.

Note. The EMUs, and any water source to which the EMUs apply, may be amended as provided for in Part 12 of this Plan.

Table A – Extraction Management Units

	Column 1 – Extraction Management Unit	Column 2 – Water Sources
(a)	Towamba River Extraction Management Unit	Upper Towamba River Water Source Jingo Creek Water Source Pericoe Creek Water Source Wog Wog River Water Source Lower Towamba River Water Source Myrtle Creek Water Source Mataganah Creek Water Source Stockyard Creek Water Source Towamba Estuary Tributaries Water Source
(b)	Wonboyn-Merrica Rivers Catchment Extraction Management Unit	Far South Coast Water Source Wonboyn River Water Source Green Cape Water Source

(c)	Pambula River Extraction Management Unit	Nullica River Water Source Eden Tributaries Water Source Curalo Lake and Tributaries Water Source Pambula Lake Tributaries Water Source Merimbula Lake Tributaries Water Source Merimbula Creek Water Source Tura Beach Tributaries Water Source Sandy Beach Creek Water Source Bondi Lake and Tributaries Water Source Wallagoot Lake and Tributaries Water Source
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7 Understanding the rules in this Plan

This Plan contains various rules. Where appropriate, rules specified in this Plan are given effect by the mandatory conditions for access licences and approvals contained in Part 11 of this Plan.

Note. The rules in this Plan include environmental water rules, access licence dealing rules, rules for granting and managing access licences, rules for water supply work approvals, rules for the making of available water determinations, water allocation account rules and daily access rules.

8 Interpretation

- (1) Words and expressions that are defined in the Dictionary in Schedule 1 of this Plan have the meaning set out in that Schedule.
- (2) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the *Water Management (General) Regulation 2004* (hereafter ***the Regulation***) have the same meaning in this Plan.
- (3) Schedules to this Plan form part of this Plan.
- (4) Notes in the text of this Plan do not form part of this Plan.

- (5) Appendices to this Plan do not form part of this Plan.
- (6) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.

Part 2 Vision, objectives, strategies and performance indicators

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

9 Vision statement

The vision of this Plan is to provide for healthy and enhanced water sources and water dependant ecosystems and equitable water sharing among users in the Towamba River Unregulated and Alluvial Water Sources.

10 Objectives

The objectives of this Plan are to:

- (a) protect, preserve, maintain and enhance the important river flow dependent and high priority groundwater dependent ecosystems of these water sources;
- (b) protect, preserve, maintain and enhance the Aboriginal, cultural and heritage values of these water sources;
- (c) protect basic landholder rights;
- (d) manage these water sources to ensure equitable sharing between users;
- (e) provide opportunities for market based trading of access licences and water allocations within sustainability and system constraints;
- (f) provide water allocation account management rules which allow sufficient flexibility to encourage responsible use of available water;
- (g) contribute to the maintenance of water quality;
- (h) provide recognition of the connectivity between surface water and groundwater;
- (i) adaptively manage these water sources; and
- (j) contribute to the *environmental and other public benefit outcomes* identified under the Water Access Entitlements and Planning Framework in the *Intergovernmental Agreement on a National Water Initiative (2004)* (NWI).

Note. Under the NWI, water that is provided by NSW to meet agreed *environmental and other public benefit outcomes* as defined within relevant *water plans* is to:

- (i) be given statutory recognition and have at least the same degree of security as water access entitlements for *consumptive use* and be fully accounted for;

- (ii) be defined as the water management arrangements required to meet the outcomes sought, including water provided on a rules basis or held as a water access entitlement; and
- (iii) if held as a water access entitlement, may be made available to be traded (where physically possible) on the temporary market, when not required to meet the *environmental and other public benefit outcomes* sought and provided such trading is not in conflict with these outcomes.

11 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules;
- (b) identify water requirements for basic landholder rights;
- (c) identify water requirements for access licences;
- (d) establish rules for granting of access licences and approvals;
- (e) establish rules that place limits on the availability of water for extraction;
- (f) establish rules for making available water determinations;
- (g) establish rules for the operation of water accounts;
- (h) establish rules which specify the circumstances under which water may be extracted;
- (i) establish access licence dealing rules;
- (j) establish performance indicators; and
- (k) identify triggers for and limits to changes to the rules in this Plan.

12 Performance indicators

The following indicators are to be used to measure the success of the strategies to reach the objectives of the Plan:

- (a) change in low flow regime;
- (b) change in moderate to high flow regime;
- (c) change in groundwater extraction relative to the long-term average annual extraction limit;

- (d) change in local water utility access;
- (e) change in, or maintenance of, ecological value of key water sources and their dependent ecosystems;
- (f) the extent to which basic landholder rights requirements have been met;
- (g) the extent to which local water utility requirements have been met;
- (h) the extent to which native title rights requirements have been met;
- (i) the change in economic benefits derived from water extraction and use; and
- (j) the extent of recognition of spiritual, social and customary values of water to Aboriginal people.

Part 3 Bulk access regime

13 Bulk access regime

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences in these water sources, having regard to:
 - (a) the environmental water rules established in Division 1 of Part 4 of this Plan;
 - (b) the requirements for water for basic landholder rights identified in Division 2 of Part 5 of this Plan;
 - (c) the requirements for water for extraction under access licences identified in Division 3 of Part 5 of this Plan; and
 - (d) the access licence dealing rules established in Part 10 of this Plan.
- (2) The bulk access regime established in this Plan for these water sources:
 - (a) recognises and is consistent with the limits to the availability of water set in relation to these water sources contained in Division 1 of Part 6 of this Plan;
 - (b) establishes rules according to which access licences are to be granted and managed contained in Parts 7 and 8 of this Plan, and available water determinations to be made contained in Division 2 of Part 6 of this Plan;
 - (c) recognises the effect of climatic variability on the availability of water, as described in clause 14;
 - (d) establishes rules with respect to 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, contained in Division 1 of Part 6 of this Plan;
 - (e) contains provisions with respect to the conditions that must be imposed as mandatory conditions on access licences, contained in Division 1 of Part 11 of this Plan; and

- (f) recognises and is consistent with the water management principles contained in section 5 of the Act.

14 Climatic variability

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

- (a) manage the sharing of water in these water sources 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, contained in Division 1 of Part 6 of this Plan; and
- (b) manage the sharing of water in specified water sources on a daily basis in the Towamba River Unregulated and Alluvial Water Sources, contained in Division 2 of Part 8 of this Plan.

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

Part 4 Environmental water provisions

Note. This Part is made in accordance with sections 8, 8A, 8B, 8C, 8D, 8E and 20 of the Act.

Division 1 Planned environmental water

15 General

This Division contains environmental water rules for the commitment, identification, establishment and maintenance of planned environmental water in these water sources.

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

16 Commitment and identification of planned environmental water

- (1) Planned environmental water is committed and identified in these water sources as set out in this clause.
- (2) Water is committed and identified as planned environmental water in these water sources in the following ways:
 - (a) by reference to the commitment of the physical presence of water in the water source; and
 - (b) 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 Establishment and maintenance of planned environmental water

- (1) Planned environmental water is established and maintained in these water sources as set out in this clause.
- (2) Planned environmental water in these water sources is:
 - (a) the physical presence of water that results from the access rules specified in Division 2 of Part 8 of this Plan; and

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 water remaining after water has been taken pursuant to basic landholder rights and access licences in accordance with the rules specified in Part 6 and Part 8.
- (3) The planned environmental water established under subclause (2) (a) is maintained by the rules specified in Division 2 of Part 8 of this Plan.
- (4) The planned environmental water established under subclause (2) (b) is maintained by the rules specified in Division 1 of Part 6 and Division 2 of Part 8 of this Plan.

Note. The rules in Division 1 of Part 6 ensure that there will be water remaining in these water sources over the long-term by maintaining compliance with the long-term average annual extraction limit. The rules in Division 1 of Part 6 provide for the reduction in available water determinations when the long-term average annual extraction limit has been exceeded in any water year.

Division 2 Adaptive environmental water

18 Adaptive environmental water provisions

- (1) A holder of an access licence in these water sources may request that the Minister impose an adaptive environmental water condition in respect of the whole or a part of the access licence, in accordance with section 8B of the Act.
- (2) An access licence may be granted in these water sources in accordance with section 8C of the Act.
- (3) An access licence surrendered by its holders may be kept by the Minister, or transferred, or changed to a different category or subcategory, in accordance with section 8D of the Act.

Part 5 Requirements for water

Division 1 General

19 Application

- (1) This Part identifies the requirements for water from these water sources for basic landholder rights (Division 2) and for extraction under access licences (Division 3).
- (2) The amounts of water specified in this Part represent the estimated water requirements of persons entitled to basic landholder rights in these water sources, and the total volumes or unit shares to be specified in the share components of all access licences in these water sources. The actual volumes of water available for extraction in these water sources at any time will depend on factors such as climatic variability, access licence priority and the rules in this Plan.
- (3) This Plan recognises that basic landholder rights in these water sources and the total share components of all access licences authorised to extract water from these water sources may change during the term of this Plan. This Plan manages such changes by having provisions that share water within the limits of water availability, as provided for in Division 1 of Part 6 of this Plan.

Note. The total share components of access licences in these water sources may change during the terms of this Plan as a result of:

- (a) the granting, surrender or cancellation of access licences in these water sources;
- (b) the variation of local water utility licences under section 66 of the Act; or
- (c) changes due to the volumetric conversion of *Water Act 1912* entitlements that are currently non-volumetric.

Division 2 Requirements for water under basic landholder rights

20 Domestic and stock rights

At the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights in these water sources are estimated to total 3.87 megalitres per day (hereafter **ML/day**), distributed as follows:

- (a) 0.31 ML/day in the Upper Towamba River Water Source;

- (b) 0.16 ML/day in the Jingo Creek Water Source;
- (c) 0.10 ML/day in the Pericoe Creek Water Source;
- (d) 0.33 ML/day in the Wog Wog Creek Water Source;
- (e) 0.88 ML/day in the Lower Towamba River Water Source;
- (f) 0.23 ML/day in the Myrtle Creek Water Source;
- (g) 0.42 ML/day in the Mataganah Creek Water Source;
- (h) 0.15 ML/day in the Stockyard Creek Water Source;
- (i) 0.01 ML/day in the Far South Coast Water Source;
- (j) 0.09 ML/day in the Wonboyn River Water Source;
- (k) 0.01 ML/day in the Green Cape Water Source;
- (l) 0.04 ML/day in the Towamba Estuary Tributaries Water Source;
- (m) 0.06 ML/day in the Nullica River Water Source;
- (n) 0.06 ML/day in the Eden Tributaries Water Source;
- (o) 0.11 ML/day in the Curalo Lake and Tributaries Water Source;
- (p) 0.59 ML/day in the Pambula Lake Tributaries Water Source;
- (q) 0.08 ML/day in the Merimbula Lake Tributaries Water Source;
- (r) 0.10 ML/day in the Merimbula Creek Water Source;
- (s) 0.02 ML/day in the Tura Beach Tributaries Water Source;
- (t) 0.04 ML/day in the Sandy Beach Creek Water Source;
- (u) 0.03 ML/day in the Bondi Lake and Tributaries Water Source; and
- (v) 0.05 ML/day in the Wallagoot Lake and Tributaries Water Source.

Notes.

- 1 Domestic and stock rights are set out in Part 1 of Chapter 3 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act with respect to the taking and use of water for domestic consumption or stock watering.

- 2 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water from these water sources should not be consumed without first being tested and, if necessary, appropriately treated. Such testing and treatment is the responsibility of the water user.

21 Native title rights

At the commencement of this Plan, there are no native title rights in these water sources. Therefore the water requirements for native title rights total 0 megalitres per year (hereafter *ML/year*).

Note. A change in native title rights may occur pursuant to the provisions of the *Native Title Act 1993* (Cth).

22 Harvestable rights

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

Division 3 Requirements for water for extraction under access licences

23 Share component of domestic and stock access licences

It is estimated that at the time of commencement of this Plan, the share components of domestic and stock access licences authorised to take water from these water sources will total 320 ML/year, distributed as follows:

- (a) 24 ML/year in the Upper Towamba River Water Source;
 - (b) 0 ML/year in the Jingo Creek Water Source;
 - (c) 0 ML/year in the Pericoe Creek Water Source;
 - (d) 0 ML/year in the Wog Wog River Water Source;
 - (e) 58 ML/year in the Lower Towamba River Water Source;
 - (f) 24 ML/year in the Myrtle Creek Water Source;
 - (g) 18 ML/year in the Mataganah Creek Water Source;
 - (h) 0 ML/year in the Stockyard Creek Water Source;
 - (i) 0 ML/year in the Far South Coast Water Source;
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- (j) 0 ML/year in the Wonboyn River Water Source;
- (k) 1 ML/year in the Green Cape Water Source;
- (l) 24 ML/year in the Towamba Estuary Tributaries Water Source;
- (m) 0 ML/year in the Nullica River Water Source;
- (n) 0 ML/year in the Eden Tributaries Water Source;
- (o) 0 ML/year in the Curalo Lake and Tributaries Water Source;
- (p) 99 ML/year in the Pambula Lake Tributaries Water Source;
- (q) 23 ML/year in the Merimbula Lake Tributaries Water Source;
- (r) 2 ML/year in the Merimbula Creek Water Source;
- (s) 0 ML/year in the Tura Beach Tributaries Water Source;
- (t) 11 ML/year in the Sandy Beach Creek Water Source;
- (u) 0 ML/year in the Bondi Lake and Tributaries Water Source; and
- (v) 36 ML/year in Wallagoot Lake and Tributaries Water Source.

24 Share component of local water utility access licences

It is estimated that at the time of commencement of this Plan, the share components of local water utility access licences authorised to take water from these water sources will total 1,400 ML/year, distributed as follows:

- (a) 0 ML/year in the Upper Towamba River Water Source;
 - (b) 0 ML/year in the Jingo Creek Water Source;
 - (c) 0 ML/year in the Pericoe Creek Water Source;
 - (d) 0 ML/year in the Wog Wog River Water Source;
 - (e) 1,400 ML/year in the Lower Towamba River Water Source;
 - (f) 0 ML/year in the Myrtle Creek Water Source;
 - (g) 0 ML/year in the Mataganah Creek Water Source;
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- (h) 0 ML/year in the Stockyard Creek Water Source;
- (i) 0 ML/year in the Far South Coast Water Source;
- (j) 0 ML/year in the Wonboyn River Water Source;
- (k) 0 ML/year in the Green Cape Water Source;
- (l) 0 ML/year in the Towamba Estuary Tributaries Water Source;
- (m) 0 ML/year in the Nullica River Water Source;
- (n) 0 ML/year in the Eden Tributaries Water Source;
- (o) 0 ML/year in the Curalo Lake and Tributaries Water Source;
- (p) 0 ML/year in the Pambula Lake Tributaries Water Source;
- (q) 0 ML/year in the Merimbula Lake Tributaries Water Source;
- (r) 0 ML/year in the Merimbula Creek Water Source;
- (s) 0 ML/year in the Tura Beach Tributaries Water Source;
- (t) 0 ML/year in the Sandy Beach Creek Water Source;
- (u) 0 ML/year in the Bondi Lake and Tributaries Water Source; and
- (v) 0 ML/year in Wallagoot Lake and Tributaries Water Source.

25 Share component of unregulated river access licences

It is estimated that at the time of commencement of this Plan, the share components of unregulated river access licences authorised to take water from these water sources will total 2,227 unit shares, distributed as follows:

- (a) 359 unit shares in the Upper Towamba River Water Source;
 - (b) 38 unit shares in the Jingo Creek Water Source;
 - (c) 0 unit shares in the Pericoe Creek Water Source;
 - (d) 180 unit shares in the Wog Wog Creek Water Source;
 - (e) 390 unit shares in the Lower Towamba River Water Source;
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- (f) 79 unit shares in the Myrtle Creek Water Source;
- (g) 144 unit shares in the Mataganah Creek Water Source;
- (h) 0 unit shares in the Stockyard Creek Water Source;
- (i) 0 unit shares in the Far South Coast Water Source;
- (j) 65 unit shares in the Wonboyn River Water Source;
- (k) 19 unit shares in the Green Cape Water Source;
- (l) 0 unit shares in the Towamba Estuary Tributaries Water Source;
- (m) 0 unit shares in the Nullica River Water Source;
- (n) 0 unit shares in the Eden Tributaries Water Source;
- (o) 0 unit shares in the Curalo Lake and Tributaries Water Source;
- (p) 769 unit shares in the Pambula Lake Tributaries Water Source;
- (q) 17 unit shares in the Merimbula Lake Tributaries Water Source;
- (r) 93 unit shares in the Merimbula Creek Water Source;
- (s) 0 unit shares in the Tura Beach Tributaries Water Source;
- (t) 74 unit shares in the Sandy Beach Creek Water Source;
- (u) 0 unit shares in the Bondi Lake and Tributaries Water Source; and
- (v) 0 unit shares in Wallagoot Lake and Tributaries Water Source.

26 Share component of aquifer access licences

It is estimated that at the time of commencement of this Plan, the share components of aquifer access licences authorised to take water from these water sources will total 257 unit shares, distributed as follows:

- (a) 48 unit shares in the Upper Towamba River Water Source;
 - (b) 0 unit shares in the Jingo Creek Water Source;
 - (c) 0 unit shares in the Pericoe Creek Water Source;
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- (d) 0 unit shares in the Wog Wog Creek Water Source;
- (e) 70 unit shares in the Lower Towamba River Water Source;
- (f) 6 unit shares in the Myrtle Creek Water Source;
- (g) 0 unit shares in the Mataganah Creek Water Source;
- (h) 0 unit shares in the Stockyard Creek Water Source;
- (i) 0 unit shares in the Far South Coast Water Source;
- (j) 0 unit shares in the Wonboyn River Water Source;
- (k) 0 unit shares in the Green Cape Water Source;
- (l) 0 unit shares in the Towamba Estuary Tributaries Water Source;
- (m) 0 unit shares in the Nullica River Water Source;
- (n) 0 unit shares in the Eden Tributaries Water Source;
- (o) 0 unit shares in the Curalo Lake and Tributaries Water Source;
- (p) 39 unit shares in the Pambula Lake Tributaries Water Source;
- (q) 0 unit shares in the Merimbula Lake Tributaries Water Source;
- (r) 0 unit shares in the Merimbula Creek Water Source;
- (s) 0 unit shares in the Tura Beach Tributaries Water Source;
- (t) 85 unit shares in the Sandy Beach Creek Water Source;
- (u) 0 unit shares in the Bondi Lake and Tributaries Water Source; and
- (v) 9 unit shares in the Wallagoot Lake and Tributaries Water Source.

27 Share component of unregulated river (high flow) access licences

It is estimated that at the time of commencement of this Plan, the share components of unregulated river (high flow) access licences authorised to take water from these water sources will total 0 unit shares, distributed as follows:

- (a) 0 unit shares in the Upper Towamba River Water Source;
-

- (b) 0 unit shares in the Jingo Creek Water Source;
- (c) 0 unit shares in the Wog Wog River Water Source;
- (d) 0 unit shares in the Lower Towamba River Water Source;
- (e) 0 unit shares in the Myrtle Creek Water Source; and
- (f) 0 unit shares in the Mataganah Creek Water Source.

Note. The water sources listed above are the only water sources within the Plan area which have been identified as suitable for unregulated river (high flow) access licences. This Plan allows for a specified amount of unregulated river access licences to be converted to the unregulated river (high flow) access licences. However, at the commencement of this Plan, there are no existing access licences of this category, hence the 0 unit shares indicated.

Part 6 Limits to the availability of water

Division 1 Long-term average annual extraction limit

28 General

The availability of water for extraction in these water sources on a long-term basis is to be managed in accordance with this Part.

29 Volume of the long-term average annual extraction limits

- (1) This clause establishes a long-term average annual extraction limit by reference to the EMUs specified in clause 6.
- (2) The long-term average annual extraction limit for each extraction management unit is the sum of:
 - (a) the share components of all access licences in the respective extraction management unit at the time of commencement of this Plan; 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 share components of access licences granted in the respective extraction management unit under the Regulation and clause 36 of this Plan.
- (3) Following the purchase and/or cancellation of an access licence in these water sources, the Minister may vary the respective long-term average annual extraction limit.
- (4) The long-term average annual extraction limit for the Towamba River Extraction Management Unit may be varied upon the conversion of access licences from an unregulated river access licence to an unregulated river (high flow) access licence.
- (5) Any variation made under subclause (4) will result in the long-term average annual extraction limit being reduced by the amount of the cancelled share component of the unregulated river access licence and increased by the amount of the share component of the granted unregulated river (high flow) access licence.

30 Calculation of current levels of annual extraction

- (1) After each water year, the total volume of water extracted during that water year under access licenses and pursuant to basic landholder rights shall be calculated for each extraction management unit specified in clause 6.
- (2) For the purposes of calculating the total volume of water extracted during a water year, the following shall be taken into account:
 - (a) all water taken by holders of all categories of access licenses in the water source, except for those access licences to which section 8C of the Act relates; and
 - (b) all water taken pursuant to basic landholder rights.

31 Assessment of average annual extraction against the long-term average annual extraction limit

- (1) An assessment of average annual extractions against the long-term average annual extraction limit is to be conducted for each extraction management unit.
- (2) Commencing in the fourth water year in which this Plan has effect, the assessments referred to in subclause (1) shall compare the long-term average annual extraction limit established in clause 29 against the annual extraction averaged over the preceding three water years in the respective extraction management unit.

32 Compliance with the long-term average annual extraction limits

- (1) Compliance with the long-term average annual extraction limit established for each extraction management unit specified in clause 6 of this Plan, is to be managed in accordance with this clause.
- (2) Commencing in the fourth water year in which this Plan has effect, if in the Minister's opinion, the assessment under clause 31 demonstrates that annual extractions in the respective extraction management unit averaged over the three preceding water years, has exceeded the long-term average annual extraction limit for that extraction management unit by 5% or more, then the available water determinations for unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences in that extraction management unit are to be reduced in the following water year in accordance with subclause (3).

- (3) The reduction under subclause (2) shall be of an amount that is, in the Minister's opinion, necessary to return average annual extractions in the respective extraction management unit to the long-term average annual extraction limit established in this Part.

Division 2 Available water determinations

33 General

- (1) Available water determinations made for access licences with a share component that specifies one of these water sources are to be expressed as either:
 - (a) a percentage of share component, for access licences which have share components specified as megalitres per year; or
 - (b) megalitres per unit share, for access licences which have share components specified as a number of unit shares.
- (2) Subject to subclause (3), the sum of available water determinations made for any access licence with a share component that specifies one of these water sources shall not, in any water year, exceed:
 - (a) 100% of the access licence share component or such lower amount that results from Division 1 of this Part, for all access licences where share components are specified as megalitres per year; or
 - (b) 1 megalitre per unit share of the access licence share component or such lower amount that results from Division 1 of this Part, for all access licences, where share components are specified as a number of unit shares.
- (3) For the first water year in which this Plan has effect only, subclause (2) does not apply to access licences with a share component that specifies one of these water sources.

34 Available water determinations made at the commencement of this Plan

- (1) In making available water determinations under section 59 of the Act at the commencement of this Plan, the Minister should consider the rules in this clause.
 - (2) At the commencement of this Plan, the following available water determinations should be made for access licences with a share component that specifies one of these water sources:
-

- (a) 200% of access licence share component for domestic and stock access licences;
- (b) 200% of access licence share component for local water utility access licences;
- (c) 2 megalitres per unit of share component for unregulated river access licences;
- (d) 2 megalitres per unit of share component for unregulated river (high flow) access licences; and
- (e) 2 megalitres per unit of share component for aquifer access licences.

35 Available water determinations after the first water year of this Plan

- (1) In making available water determinations under section 59 of the Act after the first water year in which this Plan has effect, the Minister should consider the rules in this clause.
- (2) At the commencement of each water year after the first water year in which this Plan has effect, the following available water determinations should be made for access licences with a share component that specifies one of these water sources:
 - (a) 100% of access licence share component for domestic and stock access licences;
 - (b) 100% of access licence share component for local water utility access licences;
 - (c) 1 megalitre per unit of share component for unregulated river access licences;
 - (d) 1 megalitre per unit of share component for unregulated river (high flow) access licences; and
 - (e) 1 megalitre per unit of share component for aquifer access licences;

or such lower amount that results from Division 1 of this Part.

Note. Division 1 of this Part provides for available water determinations for unregulated river, unregulated river (high flow) and aquifer access licences to be reduced where the long-term average annual extraction limit in an EMU has been exceeded.

Part 7 Rules for granting access licences

Note. This Part is made in accordance with sections 20, 61 and 63 of the Act. Access licences granted in these water sources will be subject to mandatory conditions and discretionary conditions.

36 Specific purpose access licences

- (1) A specific purpose licence shall 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.
 - (2) Applications for specific purpose access licences, other than those permitted under the Regulation, may not be made in these water sources except for an unregulated river (subcategory “Aboriginal community development”) access licence for the taking of water from C Class flows only in any of the following water sources:
 - (a) Upper Towamba River Water Source;
 - (b) Jingo Creek Water Source;
 - (c) Wog Wog River Water Source;
 - (d) Lower Towamba River Water Source;
 - (e) Myrtle Creek Water Source; and
 - (f) Mataganah Creek Water Source.
 - (3) An unregulated river (subcategory “Aboriginal community development”) access licence shall not be granted in the following water sources if the granting of the licence would cause the total of share components of unregulated river (subcategory “Aboriginal community development”) access licences in all of these water sources, to exceed 310 ML/year:
 - (a) Upper Towamba River Water Source;
 - (b) Jingo Creek Water Source;
 - (c) Wog Wog River Water Source;
 - (d) Lower Towamba River Water Source;
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- (e) Myrtle Creek Water Source; and
- (f) Mataganah Creek Water Source.

Note. An unregulated river (subcategory “Aboriginal community development”) access licence will not be fully transferable. Allocations under these licences will be able to be traded to non-Aboriginal people; however, the licence itself can only be traded amongst Aboriginal people, and as such will remain in the Aboriginal community for the life of the licence. These licences will not be able to be converted to any other category of licence. Aboriginal communities, enterprises and individuals are encouraged to seek financial assistance from funding bodies to purchase other categories of access licences if they require fully transferable licences.

- (4) An access licence of the subcategory “Aboriginal cultural” shall not be granted in these water sources unless the share and extraction component of the proposed access licence is less than or equal to 10 ML/year.
- (5) An access licence applied for in accordance with the Regulation shall not be granted in the following water sources:
 - (a) Pericoe Creek Water Source;
 - (b) Stockyard Creek Water Source;
 - (c) Far South Coast Water Source;
 - (d) Nullica River Water Source;
 - (e) Eden Tributaries Water Source;
 - (f) Curalo Lake and Tributaries Water Source;
 - (g) Tura Beach Tributaries Water Source; and
 - (h) Bondi Lake and Tributaries Water Source.

Note. The Regulation will provide for the creation of new access licences that authorise the taking of tidal pool water from the Towamba Estuary Water Source, the Nullica River Water Source, Eden Tributaries Water Source, Curalo Lake and Tributaries Water Source, Wonboyn River Water Source, Pambula Lake Tributaries Water Source, Merimbula Lake Tributaries Water Source, Merimbula Creek Water Source, Tura Beach Tributaries Water Source, Sandy Beach Creek Water Source and the Wallagoot Lake and Tributaries Water Source (for which no entitlement has previously been required under the *Water Act 1912*).

Part 8 Rules for managing access licences

Division 1 Water allocation account management rules

37 General

The rules in this Division apply to the taking of water under an access licence with a share component that specifies one of these water sources.

Note. The Act provides for the keeping of water allocation accounts. This Division imposes further limitations on the volume of water that may be taken under the access licences to which this clause applies. It does not authorise the taking of more water than is credited to the respective water allocation accounts for those access licences.

38 Individual access licence account management rules

Note. The rules in this clause impose a restriction on the volume of water that may be taken under an access licence over a specified period of time. This restriction is in addition to any other limits on access licences for the taking of water contained in this Plan. For further clarification, these rules do not authorise the taking of more water than is credited to the respective water allocation account for the access licence at the time water is taken. It is an offence under the Act to take more water than is credited to the water allocation account for an access licence.

- (1) For the period of the first three water years in which this Plan has effect, the maximum volume of water that may be taken under a domestic and stock access licence, a local water utility access licence, an unregulated river access licence, an unregulated river (high flow) access licence or an aquifer access licence in these water sources, must not exceed a volume equal to:
 - (a) fifty per cent of the water allocations accrued to the water allocation account for the access licence from available water determinations in the first water year; plus
 - (b) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in the second and third water years; plus
 - (c) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act, in those years; plus
 - (d) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act, in those years.
- (2) For the period of any three consecutive water years after the first water year in which this Plan has effect, the maximum volume of water that may be taken under a

domestic and stock access licence, a local water utility access licence, an unregulated river access licence, an unregulated river (high flow) access licence or an aquifer access licence in these water sources, must not exceed a volume equal to the lesser of:

- (a) the sum of:
 - (i) water allocations accrued to the water allocation account for the access licence from available water determinations in those years;
 - (ii) the water allocations carried over from the water year prior to those three water years under subclause (3);
 - (iii) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act, in those years; and
 - (iv) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act, in those years; or
 - (b) the sum of:
 - (i) the share component of the access licence at the beginning of the first of those three water years;
 - (ii) the share component of the access licence at the beginning of the second of those three water years;
 - (iii) the share component of the access licence at the beginning of the third of those three water years;
 - (iv) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act, in those years; and
 - (v) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act, in those years.
- (3) The maximum water allocation that can be carried over in the water allocation account for a domestic and stock access licence, a local water utility access licence, an unregulated river access licence, an unregulated river (high flow) access licence or an aquifer access licence in these water sources, from one water year to the next is equal to:
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- (a) 100% of the access licence share component, for access licences with share components expressed as ML/year; or
- (b) 1 ML per unit share of access licence share component, for access licences with share components expressed as a number of unit shares.

Division 2 Flow classes and daily access rules

39 General

The rules in this Division apply to the taking of water under an access licence with a share component that specifies one of these water sources.

Note. Part 12 allows for amendments to be made to Division 2 of Part 8.

40 Flow classes

- (1) This Plan establishes flow classes specified in Column 3 of Table B as the basis for the sharing of flows on a daily basis in these water sources.
- (2) The flow classes in Column 3 of Table B, and the flow reference points specified in Column 6 of Table B, are established for each water source specified in Column 1 and each management zone specified in Column 2 of Table B.
- (3) The flow classes commence on the date specified in Column 4 of Table B.
- (4) A flow applies in the respective water source or management zone, on the day specified in Column 7 of Table B, when flows (the flow of water in ML/day) as measured at the flow reference point specified in Column 6 of Table B are equal to the flow specified in Column 5 of Table B.
- (5) For the purpose of Table B *Year 1 of this Plan* means from the date of commencement of this Plan.

Note. The flow classes, flow reference points, the water sources or management zones to which a flow class applies, or any other matter listed in Table B may be amended as provided for in Part 12 of this Plan.

Note. Only those water sources for which flow classes have been established at the commencement of this Plan are show in Table B.

Table B – Flow Classes

Column 1 Water Source	Column 2 Management Zone	Column 3 Flow class	Column 4 Commencement	Column 5 Flow (ML/day)	Column 6 Flow reference point	Column 7 Day on which flow class applies
Upper Towamba River Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004).	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.		Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.
Jingo Creek Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004) located in the Upper Towamba River Water Source.	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.		Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.
Wog Wog River Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004) located in the Upper Towamba River Water Source.	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.		Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.
Lower Towamba River Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004) located in the Upper	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.

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Column 1 Water Source	Column 2 Management Zone	Column 3 Flow class	Column 4 Commencement	Column 5 Flow (ML/day)	Column 6 Flow reference point	Column 7 Day on which flow class applies
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.	Towamba River Water Source.	Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.
Myrtle Creek Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004) located in the Upper Towamba River Water Source.	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.		Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.
Mataganah Creek Water Source.		Very Low Flow Class.	Year 1 of this Plan.	0.5 ML/day or less.	Towamba River at the Towamba gauge (220004) located in the Upper Towamba River Water Source.	Same day.
		Low Flow Class.	Year 1 of this Plan.	More than 0.5 ML/day and less than or equal to 5 ML/day.		Same day.
		A Class.	Year 1 of this Plan.	More than 5 ML/day and less than or equal to 15 ML/day.		Same day.
		B Class.	Year 1 of this Plan.	More than 15 ML/day and less than or equal to 34 ML/day.		Same day.
		C Class.	Year 1 of this Plan.	More than 34 ML/day.		Same day.

Notes.

- For Towamba River at Towamba gauge (22004):
 - 0.5 ML/day corresponds to the estimated 95th percentile flow;
 - 5 ML/day corresponds to the estimated 90th percentile flow;
 - 15 ML/day corresponds to the estimated 80th percentile flow; and
 - 34 ML/day corresponds to the estimated 60th percentile flow.
- The flow percentiles above refer to daily flows at the gauge and include all days of record.

41 Access rules for the taking of surface water

- (1) This clause applies to the taking of water under an access licence from these water sources excluding:
 - (a) the taking of water from these alluvial sediments; and
 - (b) the taking of water under an access licence that nominates an aquifer interference approval.
- (2) Subject to subclause (12), water must not be taken under an unregulated river access licence or a local water utility access licence, with a share component that specifies a water source or an extraction component that specifies a management zone with a Very Low Flow Class or Low Flow Class that has commenced, when flows are in the Very Low Flow Class or Low Flow Class. This subclause does not apply to the taking of water under an access licence to which subclause (3) applies.
- (3) Subject to subclause (12), where the cease to pump threshold on the entitlement issued under Part 2 of the *Water Act 1912*, that was replaced by an unregulated river access licence or a local water utility access licence under the Act, is higher than the upper limit of the relevant Low Flow Class that commenced on the date of commencement of this Plan, then water must not be taken under that access licence when flows are at or less than the cease to pump threshold that was specified on the replaced *Water Act 1912* entitlement.

Note. Those licences and their access rules that have been identified as higher than the upper limit of the relevant Low Flow Class are specified in Appendix 3.
- (4) Subject to subclause (12), water must not be taken under a domestic and stock access licence with a share component that specifies a water source or an extraction component that specifies a management zone with a Very Low Flow Class that has commenced, when flows are in the Very Low Flow Class. This subclause does not apply to the taking of water under an access licence to which subclause (5) applies.
- (5) Subject to subclause (12), where the cease to pump threshold on the entitlement issued under Part 2 of the *Water Act 1912*, that was replaced by a domestic and stock access licence under the Act, is higher than the upper limit of the relevant Very Low Flow Class that commenced on the date of commencement of this Plan, then water must not be taken under that access licence when flows are at or less than the cease to pump threshold that was specified on the replaced *Water Act 1912* entitlement.

Note. Those licences and their access rules that have been identified as higher than the upper limit of the relevant Very Low Flow Class are specified in Appendix 3.

- (6) Water must not be taken under an unregulated river (subcategory “Aboriginal community development”) access licence or an unregulated river (high flow) access licence when flows are in the Very Low Flow Class, Low Flow Class, A Class or B Class.
 - (7) Subject to subclauses (12) and (14), water must not be taken under an access licence if there is no visible flow in the water source at the location at which water is proposed to be taken.
 - (8) Water must not be taken from an in-river dam pool unless the in-river dam is passing such inflows as specified on the water supply work approval for the in-river dam.
 - (9) The inflows to be specified on the water supply work approval for the in-river dam referred to in subclause (8) are:
 - (a) the inflows that were specified in conditions on the *Water Act 1912* entitlement that the approval replaces; or
 - (b) where no inflows were specified, the amount of inflows determined by the Minister.
 - (10) Subject to subclause (12), water must not be taken from a pool, lagoon or lake in water sources or management zones where flow classes have not been established, when the water level in that pool, lagoon or lake is less than 100 per cent of the full containment volume of the respective pool, lagoon or lake.
 - (11) Subject to subclause (12), water must not be taken under an unregulated river access licence or a local water utility access licence with a share component that specifies one of the following water sources, when flows in the water source or management zone are in A Class on a rising river:
 - (a) Upper Towamba River Water Source;
 - (b) Jingo Creek Water Source;
 - (c) Wog Wog River Water Source;
 - (d) Lower Towamba River Water Source;
 - (e) Myrtle Creek Water Source; and
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- (f) Mataganah Creek Water Source.

Note. The effect of subclauses (2) and (11) are that on a rising river, unregulated river access licences and local water utility access licences will not be permitted to take water when flows are in A Class but will be permitted to do so on a falling river.

- (12) Subclauses (2), (3), (4), (5), (7), (10) and (11) do not apply to the following:
- (a) the taking of water under an access licence to which clause 1 of Schedule 2 applies, for any of the purposes listed below, provided that water taken does not exceed 20 kilolitres per day per access licence, or such lower amount specified on the access licence in accordance with subclause (13):
 - (i) fruit washing;
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene;
 - (iii) poultry watering and misting; or
 - (iv) cleaning of enclosures used for intensive animal production for the purposes of hygiene;
 - (b) the taking of water for domestic consumption only under a domestic and stock access licence or a domestic and stock (subcategory “domestic”) access licence that existed at the commencement of this Plan, for the first 3 years of this Plan;
 - (c) the taking of water for stock watering only under a domestic and stock access licence or a domestic and stock (subcategory “stock”) access licence that existed at the commencement of this Plan, for the first 3 years of this Plan, provided the volume of water taken does not exceed 14 litres per hectare of grazeable area per day;
 - (d) the taking of water using a run-off harvesting dam or from an in-river dam pool; and
 - (e) the taking of water under a local water utility access licence or an unregulated river (subcategory “town water supply”) access licence to which clause 2 of Schedule 2 applies.
- (13) The Minister may amend a water supply work approval to reduce the maximum daily volume limit imposed by the rule under subclause (12) (a), if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose referred to in subclause (12) (a).
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- (14) Subclause (7) does not apply to the taking of water from natural pools, lagoons and lakes that are subject to the 100 per cent of the full containment volume cease to take condition specified in subclause (10).

Note. Part 12 of this Plan allows for amendments to be made to clause 41.

42 Access rules for the taking of water from these alluvial sediments

- (1) This clause applies to the taking of water under an access licence from these alluvial sediments using a water supply work that is located at or less than 40 metres from the top of the high bank of a river, excluding the taking of water under an access licence that nominates an aquifer interference approval.
- (2) The taking of water under an aquifer access licence which arises from the conversion of an unregulated river access licence under clause 57 of Part 10 shall be subject to the same access rules under clause 41 as those for an unregulated river access licence in the same water source or management zone.
- (3) Subject to subclauses (10), (12) and (14), from the start of the sixth water year in which this Plan has effect, the taking of water under an aquifer access licence shall be subject to the same access rules under clause 41 as those for an unregulated river access licence in the same water source or management zone.
- (4) Subject to subclauses (8), (9), (10) and (14), the taking of water under a domestic and stock access licence shall be subject to the same access rules under clause 41 as those for an unregulated river access licence in the same water source or management zone.
- (5) Subject to subclauses (6), (13) and (14), the taking of water under a local water utility access licence shall be subject to the same access rules under clause 41 as those for an unregulated river access licence in the same water source or management zone.
- (6) A local water utility access licence listed in clause 3 of Schedule 3 may continue to take water when flows in the water source or management zone are in the Very Low Flow Class and Low Flow Class, provided that:
- (a) prior to the commissioning of the Bega to Yellow Pinch Dam pipeline, the maximum daily volume that can be extracted under a local water utility access licence held by Bega Valley Shire Council in the Lower Towamba River Water Source when flows are in the Very Low Flow Class and Low Flow Class shall not exceed:

- (i) 2.5 ML/day when the groundwater level at monitoring bore GHD2 is higher than or equal to -0.5 meters Australian Height Datum (hereafter *m AHD*);
 - (ii) 1.5 ML/day when the groundwater level at monitoring bore GHD2 is lower than -0.5 m AHD and the volume of water held in Ben Boyd Dam is greater than or equal to 50% of the capacity of the Dam; and
 - (iii) 2.5 ML/d when the groundwater level at monitoring bore GHD2 is lower than -0.5 m AHD and the volume of water held in Ben Boyd Dam is less than 50% of the capacity of the Dam; and
- (b) after the commissioning of the Bega to Yellow Pinch dam pipeline, the maximum daily volume that can be extracted under a local water utility access licence held by Bega Valley Shire Council in the Lower Towamba River Water Source when flows are in the Very Low Flow Class and Low Flow Class shall not exceed:
 - (i) 1 ML/day when the volume of water held in Ben Boyd Dam is greater than or equal to 50% of the capacity of the Dam; and
 - (ii) 2.5 ML/day when the volume of water held in Ben Boyd Dam is less than 50% of the capacity of the Dam.
- (7) For the purposes of the taking of water from these alluvial sediments under an access licence to which subclauses (2), (3), (4) and (5) apply, an access rule for an unregulated river access licence that requires a visible flow shall be taken to mean a visible flow in the river immediately adjacent to the water supply work from which the water is proposed to be taken.
- (8) Subclause (4) does not apply to the taking of water for domestic consumption only under domestic and stock access licences or domestic and stock (subcategory “domestic”) access licences that existed at the commencement of this Plan, for the first 3 years of this Plan.
- (9) Subclause (4) does not apply to the taking of water for stock watering only under a domestic and stock access licence or a domestic and stock (subcategory “stock”) access licence that existed at the commencement of this Plan, for the first 3 years of this Plan, provided the volume of water taken does not exceed 14 litres per hectare of grazeable area per day.

- (10) Subclauses (3) and (4) do not apply to the taking of water under an access licence to which clause 1 of Schedule 3 applies, for any of the purposes listed below, provided that water taken does not exceed 20 kilolitres per day per access licence, or such lower amount specified on the access licence in accordance with subclause (11):
- (a) fruit washing;
 - (b) cleaning of dairy plant and equipment for the purpose of hygiene;
 - (c) poultry watering and misting; or
 - (d) cleaning of enclosures used for intensive animal production for the purposes of hygiene.
- (11) The Minister may amend a water supply work approval to reduce the maximum daily volume limit imposed by the rule under subclauses (10) and (14) (a), if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose referred to in subclauses (10) and (14) (a).
- (12) Subclause (3) does not apply to the taking of water under an aquifer (subcategory “town water supply”) access licence to which clause 2 of Schedule 3 applies.
- (13) Subclause (5) does not apply to the taking of water under a local water utility access licence to which clause 2 of Schedule 3 applies.
- (14) Subclauses (2), (3), (4) or (5) which require there be a visible flow in the river immediately adjacent to the water supply work from which the water is proposed to be taken while water is taken do not apply if:
- (a) the taking of water under an access licence to which clause 1 of Schedule 3 applies is for a purpose listed below, provided that water taken does not exceed 20 kilolitres per day per access licence, or such lower amount specified on the access licence in accordance with subclause (11):
 - (i) fruit washing;
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene;
 - (iii) poultry watering and misting; or
 - (iv) cleaning of enclosures used for intensive animal production for the purposes of hygiene;

- (b) it is under a local water utility access licence or an aquifer (subcategory “town water supply”) access licence to which clause 2 of Schedule 3 applies;
- (c) it is under a local water utility access licence to which clause 3 of Schedule 3 applies;
- (d) the taking of water is for domestic consumption only under domestic and stock access licences or domestic and stock (subcategory “domestic”) access licences that existed at the commencement of this Plan, for the first 3 years of this Plan;
or
- (e) the taking of water is for stock watering only under a domestic and stock access licence or a domestic and stock (subcategory “stock”) access licence that existed at the commencement of this Plan, for the first 3 years of this Plan, provided the volume of water taken does not exceed 14 litres per hectare of grazeable area per day.

Note. Part 12 of this Plan allows for amendments to be made to clause 42.

43 Total daily extraction limits

This Plan establishes total daily extraction limits (hereafter *TDELs*) in these water sources as follows:

- (a) in the Lower Towamba River Water Source:
 - (i) 4.80 ML/day in A Class for all access licences when there is a visible flow in the Towamba River immediately downstream of the Kiah borefield;
 - (ii) 2.80 ML/day in A Class for all access licences when there is no visible flow in the Towamba River immediately downstream of the Kiah borefield;
 - (iii) 10.5 ML/day in B Class for all access licences; and
 - (iv) 12 ML/day in C Class for local water utility access licences;
 - (b) in the Upper Towamba River Water Source:
 - (i) 2.7 ML/day in A Class for all access licences; and
 - (ii) 6.5 ML/day in B Class for all access licences;
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- (c) in the Jingo Creek Water Source:
 - (i) 2.7 ML/day in A Class for all access licences; and
 - (ii) 6.5 ML/day in B Class for all access licences;
- (d) in the Wog Wog River Water Source:
 - (i) 2.7 ML/day in A Class for all access licences; and
 - (ii) 6.5 ML/day in B Class for all access licences;
- (e) in the Myrtle Creek Water Source:
 - (i) 2.7 ML/day in A Class for all access licences; and
 - (ii) 6.5 ML/day in B Class for all access licences; and
- (f) in the Mataganah Creek Water Source:
 - (i) 2.7 ML/day in A Class for all access licences; and
 - (ii) 6.5 ML/day in B Class for all access licences.

Note. TDELS are an assessment tool only and will be used by the NSW Office of Water to determine which access licences (if any) may require individual daily extraction limits. They do not require any action to be taken by the licence holder. However, continued exceedence of the TDEL by all water users will trigger the amendment of this Plan to allow for the imposition of individual daily extraction limits under clause 44.

Note. Part 12 of this Plan allows for amendments to be made to establish TDELS.

44 Initial assignment of TDELS to categories of access licences

This Plan initially assigns TDELS to categories of access licences in the Lower Towamba River Water Source as follows:

- (a) for A Class:
 - (i) 1.8 ML/day in total for unregulated river access licences and domestic and stock access licences;
 - (ii) 3.0 ML/day for local water utility access licences used to take water from the alluvial sediments, when there is a visible flow in the Towamba River immediately downstream of the Kiah borefield; and

(iii) 1 ML/day for local water utility access licences used to take water from the alluvial sediments, when there no visible flow in the Towamba River immediately downstream of the Kiah borefield;

(b) for B Class:

(i) 4.5 ML/day in total for unregulated river access licences and domestic and stock access licences; and

(ii) 6.0 ML/day for local water utility access licences; and

(c) for C Class, 12.0 ML/day for local water utility access licences.

Note. Part 12 of this Plan allows for amendments to be made to assign TDELs.

45 Individual daily extraction limits

(1) At the commencement of this Plan, there are no individual daily extraction limits (hereafter *IDELs*) established for access licences in these water sources.

(2) If the Minister is satisfied that an assessment of daily extraction under access licences for which a TDEL is established under clause 43 indicates that extraction under the access licence exceeds the TDEL, the Minister may amend the extraction component of an access licence under section 68A of the Act to impose an IDEL on any one or more of those access licences.

Note. Part 12 of this Plan allows for amendments to be made to establish IDELs.

Part 9 Rules for water supply works approvals

Note. This Part is made in accordance with sections 5, 21 and 95 of the Act. Part 12 allows for amendments to be made to Part 9.

Division 1 Rules applying to water supply works that take surface water

46 General

The rules in this Division apply to water supply work approvals for water supply works that may be used to take water:

- (a) occurring naturally on the surface of the ground shown on the Registered Map;
and
- (b) in rivers, lakes, estuaries and wetlands in these water sources.

Note. The rules in this Division apply to all water supply works except those water supply works that may be used to take water from these alluvial sediments.

47 Granting or amending water supply work approvals

- (1) An application for the granting or amending of a water supply work approval for an in-river dam on third order or higher stream within these water sources shall not be considered.

Note. “Stream order” and “in-river dam” are defined in the Dictionary.

- (2) A water supply work approval shall not be granted or amended to authorise a runoff harvesting dam which, in the Minister’s opinion, has a capacity that exceeds the volume of the share component of the access licences that nominate the dam.

Note. “Runoff harvesting dam” is defined in the Dictionary

- (3) A water supply work approval shall not be granted or amended for a water supply work being used to take water in the following water sources:
 - (a) Pericoe Creek Water Source;
 - (b) Stockyard Creek Water Source;
 - (c) Far South Coast Water Source;
 - (d) Nullica River Water Source;

- (e) Eden Tributaries Water Source;
- (f) Curalo Lake and Tributaries Water Source;
- (g) Tura Beach Tributaries Water Source; or
- (h) Bondi Lake and Tributaries Water Source.

Note. Part 12 allows for amendments to be made to clause 47.

Division 2 Rules applying to water supply works that take water in these alluvial sediments

48 General

- (1) The rules in this Division apply only to water supply works that may be used to take water from these alluvial sediments.
- (2) In this Division, a reference to water supply work is limited to a water supply work that may be used to take water from these alluvial sediments.

49 Granting or amending water supply work approvals

- (1) Subject to subclause (2), a water supply work approval shall not be granted or amended for a water supply work being used to take water in the following water sources:
 - (a) Pericoe Creek Water Source;
 - (b) Myrtle Creek Water Source;
 - (c) Mataganah Creek Water Source;
 - (d) Stockyard Creek Water Source;
 - (e) Far South Coast Water Source;
 - (f) Nullica River Water Source;
 - (g) Eden Tributaries Water Source;
 - (h) Curalo Lake and Tributaries Water Source;
 - (i) Tura Beach Tributaries Water Source; or
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- (j) Bondi Lake and Tributaries Water Source.
- (2) Subclause (1) does not apply to water supply works used solely to take water pursuant to basic landholder rights.

50 Rules for amending water supply work approvals for replacement groundwater works

- (1) The Minister may amend a water supply work approval to alter the work to which the approval relates if the Minister is satisfied that the amendment is for a replacement groundwater work.
- (2) For the purposes of this Plan, *replacement groundwater work* means a water supply work that replaces an existing water supply work constructed and used for the purpose of taking water from an aquifer where:
 - (a) the existing water supply work is the subject of a water supply work approval under the Act; and
 - (b) the replacement groundwater work is to be constructed to extract water from the same water source as the existing water supply work; and
 - (c) the replacement groundwater work is to be constructed to extract water from:
 - (i) the same depth as the existing water supply work; or
 - (ii) a depth specified by the Minister if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems; and
 - (d) the replacement groundwater work is to be located within:
 - (i) 20 metres of the existing water supply work; or
 - (ii) a distance greater than 20 metres of the existing water supply work if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems; and
 - (e) if the existing water supply work is located within 40 metres of the high bank of a river, the replacement groundwater work is to be located within:

- (i) 20 metres of the existing water supply work but no closer to the high bank of the river; or
 - (ii) more than 20 metres from the existing water supply work, but no closer to the high bank of the river, if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems; and
- (f) the replacement groundwater work shall not have a greater internal diameter or excavation footprint than the existing water supply work, except where the internal diameter of the casing of the existing water supply work is no longer manufactured, in which case the internal diameter of the replacement groundwater work is to be no greater than 110 percent of the internal diameter of the existing water supply work it replaces; and
- (g) for the purposes of paragraph (f), *internal diameter* means the diameter of the inside of the casing of the water supply work which is a water bore and *excavation footprint* means the authorised dimensions of a water supply work which is an unlined excavation constructed for the purposes of water supply only.
- (3) For the purposes of subclause (2) (c) (ii), the Minister may require the applicant to submit a hydrogeological study, assessed as adequate by the Minister, to demonstrate that the construction of the work at a different depth to the existing water supply work will result in no greater impact on a water source or its dependent ecosystems.
- (4) For the purposes of subclauses (2) (d) (ii) or (2) (e) (ii), the Minister may require the applicant to submit a hydrogeological study, assessed as adequate by the Minister, to demonstrate that the location of the work at a greater distance than 20 metres from the existing water supply work will result in no greater impact on a water source or its dependent ecosystems.

Notes.

- 1 The Minister may amend an approval on the application of the holder of the approval, under section 107 of the Act. The operation of section 107 (3) of the Act may further restrict the replacement of an existing water supply work.
- 2 Part 12 allows for amendments to be made to clause 50.

51 Rules to minimise interference between water supply works

- (1) A water supply work approval shall not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located within:
 - (a) 100 metres of a water supply work authorised to take water from the same water source that is nominated by another access licence on another landholding;
 - (b) 100 metres of a water supply work authorised to take water from the same water source pursuant to basic landholder rights on another landholding;
 - (c) 50 metres from the boundary of the land on which the work is located, unless the landholder of the land adjoining the boundary has provided consent in writing;
 - (d) 500 metres from a water supply work authorised to take water from the same water source by a local water utility or a major utility, unless the local water utility or major utility has provided consent in writing; or
 - (e) 100 metres of a NSW Office of Water observation or monitoring bore, unless the Minister has provided consent in writing.
- (2) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
 - (a) the water supply work is solely for basic landholder rights;
 - (b) the water supply work is a replacement groundwater work;
 - (c) the water supply work is for the purpose of monitoring, environmental management or remedial works;
 - (d) the location of the water supply work would result in no more than minimal impact on existing extractions within these water sources; or
 - (e) a hydrogeological study, submitted by the applicant and assessed as adequate by the Minister, demonstrates that the location of the work at a lesser distance will have no more than minimal impact on existing extraction from the water source.
- (3) An approval granted under subclause (2) (e) shall be subject to a requirement that, when directed by the Minister by notice in writing, the approval holder must carry out

all actions required by the Minister and specified in the notice to minimise the impact of the water supply work on existing water levels or extraction, if the Minister is satisfied that the location of the water supply work is causing more than minimal impact on existing water levels or extraction.

Note. Part 12 allows for amendments to be made to clause 51.

52 Rules for water supply works located near contamination sources

- (1) A water supply work approval will not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located:
 - (a) within 250 metres of the plume associated with a contamination source listed in Schedule 4;
 - (b) between 250 metres and 500 metres of the plume associated with a contamination source listed in Schedule 4, unless the Minister is satisfied that no draw down of water will occur within 250 metres of the plume associated with the contamination source; or
 - (c) at a distance specified by the Minister that is more than 500 metres from the plume associated with a contamination source listed in Schedule 4, if a greater distance is determined by the Minister to be necessary to protect the water source, the environment or public health or safety.
- (2) The distance restrictions specified in subclause (1) in relation to the grant or amendment of a water supply work approval do not apply if the Minister is satisfied:
 - (a) that the distance is adequate to protect the water source, its dependant ecosystems, and public health and safety; or
 - (b) the water supply work is for the purpose of monitoring, environmental management or remedial works.

53 Rules for water supply works near sensitive environmental areas

- (1) A water supply work approval will not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located:
 - (a) within 100 metres of a high priority groundwater dependent ecosystem listed in Schedule 5 in the case of a water supply work used solely to take water pursuant to basic landholder rights; or

- (b) within 200 metres of a high priority groundwater dependent ecosystem listed in Schedule 5 in the case of a water supply work that is not used solely to take water pursuant to basic landholder rights; or
 - (c) at a distance specified by the Minister that is more than 200 metres, excluding water supply works used solely to take water pursuant to basic landholder rights, if the Minister is satisfied that the water supply work is likely to cause drawdown at the perimeter of any groundwater dependent ecosystem listed in Schedule 5; or
 - (d) within 40 metres of the top of the high bank of a river.
- (2) The distance restrictions specified in subclauses (1) (a), (b) and (c) in relation to the grant or amendment of a water supply work approval do not apply if the Minister is satisfied no drawdown of water will occur at the perimeter of any groundwater dependent ecosystem in Schedule 5.
- (3) The distance restrictions specified in subclause (1) in relation to the grant or amendment of a water supply work approval do not apply if the Minister is satisfied that:
- (a) the water supply work is for the purpose of monitoring, environmental management or remedial works; or
 - (b) the water supply work replaces an existing water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply; or
 - (c) the water supply work is a replacement groundwater work; or
 - (d) the location of the water supply work at a lesser distance, would result in no greater impact on these water sources and their dependent groundwater ecosystems.

Note. Part 12 allows for amendments to be made to clause 53.

54 Rules for water supply works near groundwater dependent culturally significant sites

- (1) A water supply work approval will not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located within:
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- (a) 100 metres of a groundwater dependent culturally significant site in the case of a water supply work used solely to take water pursuant to basic landholder rights; or
 - (b) 200 metres of a groundwater dependent culturally significant site in the case of a water supply work not used solely to take water pursuant to basic landholder rights.
- (2) The distance restrictions specified in subclause (1) in relation to the grant or amendment of a water supply work approval do not apply if the Minister is satisfied that:
- (a) the water supply work is for the purpose of monitoring, environmental management purposes or remedial works; or
 - (b) the water supply work replaces an existing water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply; or
 - (c) the water supply work is sealed off to the nearest impervious layer above the slotted intervals of the work with an impermeable seal constructed between the casing and the bore hole as specified by the Minister; or
 - (d) the water supply work is a replacement groundwater work; or
 - (e) the location of the water supply work at a lesser distance would result in no greater impact on these water sources and their groundwater dependent culturally significant sites.

Note. Culturally significant sites will be identified as a part of the assessment undertaken by the NSW Office of Water during the processing of an application for the granting or amending of a water supply work approval.

55 Rules for the use of water supply works located within restricted distances

- (1) Subject to subclauses (2) and (3), a water supply work that is located within a restricted distance specified in clauses 51 to 54 must not, in any water year, be used to take more water than the volume of water that is equal to the sum of the share components of the access licences nominating that water supply work at the commencement of this Plan.
 - (2) Subject to subclause (3), a water supply work that becomes located within a restricted distance specified in clauses 51 to 54, as a result of an amendment to this Plan, must
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not, in any water year, be used to take more water than the volume of water that is equal to the sum of share components of access licences nominating that water supply work at the time of the amendment.

- (3) Subclauses (1) and (2) do not apply where a restricted distance does not apply in accordance with clauses 51 (2), 52 (2), 53 (2), 53 (3) or 54 (2).

Note. The water quality from any bore can be affected by land use activities and inherent water quality in the aquifer. Water quality cannot be guaranteed and may be unsuitable for human consumption and other uses. The quality of water extracted should be tested before being used and appropriately treated. Such testing and treatment is the responsibility of the licence holder.

Note. Part 12 allows for amendments to be made to clause 55.

Part 10 Access licence dealing rules

56 General

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

Notes.

- 1 Access licence dealings in these water sources are subject to the provisions of the Act, the regulations, the *Access Licence Dealing Principles Order 2004* and the access licence dealing rules established in this Part.
- 2 The *Access Licence Dealing Principles Order 2004* prevails over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.
- 3 Access licence dealing rules may be amended as provided for in the amendments in Part 12.

57 Conversion of access licence to new category

- (1) This clause relates to dealings under section 71O of the Act in these water sources.
 - (2) Dealings under section 71O of the Act are prohibited in these water sources unless the conversion is from:
 - (a) an unregulated river access licence to an aquifer access licence; or
 - (b) an unregulated river access licence to an unregulated river (high flow) access licence in the following water sources:
 - (i) Upper Towamba River Water Source;
 - (ii) Jingo Creek Water Source;
 - (iii) Wog Wog River Water Source;
 - (iv) Lower Towamba River Water Source;
 - (v) Myrtle Creek Water Source; or
 - (vi) Mataganah Creek Water Source.
 - (3) A dealing under subclause (2) (a) is subject to the share component of the aquifer access licence being equal to the share component of the unregulated river access licence.
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- (4) A dealing under subclause (2) (b) is subject to:
- (a) the share component of the unregulated river (high flow) access licence being 2.5 times the share component of the unregulated river access licence; and
 - (b) the total amount of unregulated river access licence share component being converted to unregulated river (high flow) access licence not exceeding:
 - (i) 167 unit shares in the Upper Towamba River Water Source;
 - (ii) 31 unit shares in the Jingo Creek Water Source;
 - (iii) 105 unit shares in the Wog Wog River Water Source;
 - (iv) 119 unit shares in the Lower Towamba River Water Source;
 - (v) 44 unit shares in the Myrtle Creek Water Source; or
 - (vi) 65 unit shares in the Mataganah Creek Water Source.

58 Amendment of share component dealings (change of water source)

- (1) This clause relates to dealings under section 71R of the Act in these water sources.
- (2) Dealings under section 71R of the Act are prohibited in these water sources.

59 Assignment of water allocation dealings

- (1) This clause relates to dealings under section 71T of the Act in these water sources.
- (2) Dealings between water sources under section 71T of the Act are prohibited.

60 Interstate access licence transfer and assignment of water allocation

- (1) This clause relates to dealings under section 71U and 71V of the Act in these water sources.
- (2) Dealings involving the interstate transfer of an access licence to or from these water sources are prohibited.
- (3) Dealings involving the interstate assignment of water allocations to or from access licences in these water sources are prohibited.

Part 11 Mandatory conditions

Division 1 Access licences

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

61 General

- (1) Access licences in these water sources must have mandatory conditions where required 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) that 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) that the holder of an access licence must keep a Logbook;
 - (d) that the holder of an access licence must record the following in the Logbook:
 - (i) each date on 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 domestic and stock, local water utility, unregulated river, unregulated river (high flow) and aquifer access licences only, the volume of water taken in the first three water years in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 38 (1);
 - (vi) for domestic and stock, local water utility, unregulated river, unregulated river (high flow) and aquifer access licences only, the volume of water taken in any three consecutive water years after the first water year in

which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 38 (2); and

- (vii) any other information required to be recorded in the Logbook under the rules of this Plan;
 - (e) that the holder of an access licence must produce the Logbook to the Minister for inspection, when requested;
 - (f) that the holder of an access licence must retain the information required to be recorded in the Logbook for 5 years from the date to which that information relates;
 - (g) that the holder of an access licence must notify the Minister, in writing, immediately upon becoming aware of a breach of any condition of the licence; and
 - (h) any other condition required to implement the provisions of this Plan.
- (2) 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.
- (3) An access licence for a project under Part 3A of the *Environmental Planning and Assessment Act 1979* must have mandatory conditions where required, to give effect to the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan.

Division 2 Water supply work approvals

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

62 General

- (1) Water supply work approvals for water supply works in these water sources must have mandatory conditions where required to give effect to the following:

- (a) that 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 surface water or the taking of water from these alluvial sediments as specified in Division 2 of Part 8 of this Plan;
- (b) unless excepted by the Minister, 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 *NSW Interim Water Meter Standards* 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 in to 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) that the holder of a water supply work approval must keep a Logbook;
 - (d) that the holder of a water supply work approval must record the following in the Logbook:
 - (i) each date on 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 entitlement), the authority under which water was taken;
 - (iv) the purpose or purposes for which the water taken on that date was used;
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- (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;
- (e) that the holder of a water supply work approval must produce the Logbook to the Minister for inspection, when requested;
 - (f) that the holder of a water supply work approval must retain the information required to be recorded in the Logbook for 5 years from the date to which that information relates;
 - (g) for all water supply works except those taking water from these alluvial sediments, 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 cease to take conditions do not apply and records that confirmation, and the means of confirmation (such as visual inspection or internet search), in the Logbook. In this paragraph *cease to take conditions* means any condition on the water supply work approval, or on the access licence under which water is proposed to be taken, that prohibits the taking of water in a particular circumstance; and
 - (h) any other conditions required to implement the provisions of this Plan.
- (2) A water supply work approval for a runoff harvesting dam shall have a mandatory condition which provides that the capacity of the dam shall be no greater than the volume of the share components of the access licences that nominate the dam.
 - (3) A water supply work approval for a replacement groundwater work shall have mandatory conditions to give effect to the requirements for a replacement groundwater work specified in, or specified by the Minister in accordance with, clause 50.
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63 Water supply works used to take water from these alluvial sediments

- (1) This clause applies to all water supply work approvals for water supply works that may be used to take water contained within these alluvial sediments.
- (2) Water supply work approvals to which this clause applies must have mandatory conditions where required to give effect to the following:
 - (a) the rules for limiting the taking of water within the distance restrictions as specified in clause 55;

- (b) the approval holder must ensure that the construction of a new work:
 - (i) complies with the distance restrictions specified in, or specified by the Minister in accordance with, clauses 51 to 54;

Note. If the work has been exempted by the Minister from one or more distance restriction specified in Division 2 of Part 9 of this Plan, then the approval holder must be able to demonstrate the basis for that exemption, for example if the exemption refers to a hydrogeological study which demonstrates that the location of the work will have no more than minimal impact to the satisfaction of the Minister, then evidence must be able to be provided to that effect.

- (ii) complies with construction standards prescribed for the relevant type of bore in the *Minimum Construction Requirements for Water Bores in Australia*, 2003, ISBN 1 9209 2009 9, as may be amended from time to time, or any standards which supersede those standards; and
- (iii) prevents contamination between aquifers through appropriate construction;
- (c) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned in compliance with the “minimum requirements for decommissioning bores” prescribed in the *Minimum Construction Requirements for Water Bores in Australia*, 2003, ISBN 1 9209 2009 9, as amended or replaced from time to time, unless otherwise directed by the Minister in writing;
- (d) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the work has been decommissioned;
- (e) the approval holder must, within two months of completion of the construction of the water supply work, or within two months after the issue of the approval if

the work is existing, submit to the NSW Office of Water the approved form completed with all relevant details, including:

- (i) the name and licence number of the driller who constructed the bore;
 - (ii) the details of geology and construction on the approved form;
 - (iii) details of the location of the work on a copy of the lot and deposited plan of the land, its geographical reference accurate to ± 5 metres, and the respective distance(s) of the work from the property boundaries; and
 - (iv) if the Minister has requested any water analysis and/or pumping tests to be carried out, details of the water analysis and/or pumping tests required by the Minister;
- (f) if, during the construction of the work, saline or contaminated water is encountered above the production aquifer, the approval holder must:
- (i) notify the Minister within 48 hours of becoming aware of the contaminated water;
 - (ii) take all reasonable steps to minimise contamination and environmental harm;
 - (iii) ensure that such water is sealed off by inserting casing to a depth sufficient to exclude the saline or contaminated water from the work, and, if specified by the Minister, placing an impermeable seal between the casing(s) and the walls of the work from the bottom of the casing to ground level as specified by the Minister; and
 - (iv) if the Minister has specified any other requirements, comply with any requirements specified by the Minister in writing;
- (g) when directed by the Minister by notice in writing, the approval holder must provide a report in the form specified in the notice detailing the quality of any water obtained using the water supply work;
- (h) that the water supply work approval shall lapse if the construction of the water supply work is not completed within three years of the issue of the water supply work approval; and
- (i) any other conditions required to implement the provisions of this Plan.
-

- (3) A water supply work approval granted under clause 51 (2) (e) must have a mandatory condition to give effect to clause 51 (3).

Note. Part 12 of this Plan allows for amendments to be made to clause 63.

Part 12 Amendment of this Plan

64 General

- (1) Amendments specified throughout this Plan, and in this Part, are amendments authorised by this Plan.
- (2) An amendment authorised by this Plan which results in a variation of the bulk access regime, is an amendment authorised by this Plan for the purposes of section 87 (2) (c) of the Act or 87AA of the Act.

65 Part 1

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

- (a) apply this plan to new or additional water sources or water management areas (including part thereof), or to modify (including to amend the boundaries thereof included in this Plan) or remove an existing water source or water management area (including part thereof);
- (b) add, remove or modify a management zone, including the water sources to which a management zone applies and the boundaries of such a zone;
- (c) add, remove or modify an extraction management unit, including the water sources to which an extraction management unit applies; or
- (d) amend the registered map.

66 Part 8

Division 2 of Part 8 may be amended to do any of the following:

- (a) amend the existing flow classes, establish a new or additional flow class or flow classes and amend the flow reference point to specify a newly installed gauging station in the Lower Towamba River Water Source after year 9 of this Plan, such that the top of the Very Low Flow Class is at or below the 90th percentile flow, the bottom of B Class is at or below the 80th percentile flow, and the bottom of C Class is at or below the 50th percentile flow;
- (b) amend the existing flow classes, establish a new or additional flow class or flow classes and amend the flow reference point to specify a groundwater monitoring

bore in the Lower Towamba River Water Source, if sufficient data is collected to enable determination of the flow classes;

- (c) establish a new or additional flow class or flow classes in any water source where management zones are added, or in any water source or management zone that is amended, during the term of this Plan as specified in clause 65;
- (d) add, remove or modify the flow reference point for these water sources or management zones;
- (e) add, remove or modify the description of flows at the flow reference point for these water sources or management zones as a result of an amendment under paragraph (d);
- (f) add, remove or modify the commencement date for a flow class;
- (g) add, remove or modify the water sources or management zones to which these flow classes apply;
- (h) amend clause 41 to:
 - (i) specify alternate access rules for lagoons, lakes, in-river pools and other lentic water features; and/or
 - (ii) establish a delay to the visible flow requirement specified in clause 41 (6) for those water sources or management zones that do not have a Very Low Flow Class, should suitable infrastructure or compliance mechanisms be introduced to enable the effective implementation of the delay rule;
- (i) amend clause 42 to require access licences that nominate a water supply work that may be used to take water from particular areas in these alluvial sediments located more than 40 metres from the top of the high bank of a river, to be subject to the same access rules but with a delay as unregulated river access licences for the corresponding water source or management zone specified in clause 41 of this Plan;
- (j) establish or assign new TDELs in these water sources or management zones following the imposition of an adaptive environmental water condition on an access licence that requires the water to be left in the water source or management zone for environmental purposes;

- (k) establish or assign new TDELS in these water sources or management zones to protect a proportion of flow within each flow class for the environment;
- (l) amend or remove TDELS if TDELS have been established or assigned under paragraphs (j) and (k);
- (m) include rules for the establishment, assignment and removal of IDELS if IDELS are to be imposed on licences under clause 45 (2);
- (n) amend clause 41 to remove the existing access rules where TDELS and/or IDELS have been established under paragraphs (k) and/or (m) to protect a proportion of flow within each flow class for the environment;
- (o) amend clause 41 to reinstate access rules that applied at the commencement of this Plan, where TDELS and IDELS have been removed under paragraphs (l) and (m); or
- (p) amend clauses 41 and 42 to modify the volume of water permitted to be taken for stock watering purposes.

67 Part 9

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

- (a) amend clause 47 (1) to specify additional water sources or management zones where applications for in-river dams on third order or higher streams may be considered consistent with the principles of the Act;
- (b) amend the definition of a replacement groundwater work in clause 50;
- (c) add, remove or modify a restricted distance specified in:
 - (i) clause 51 after year 5 of this Plan; or
 - (ii) clause 53 based on the outcomes of further studies of groundwater ecosystem dependency that have been assessed as adequate by the Minister; and
- (d) amend clause 55 to impose further restrictions on the rate and timing of extraction of water from the respective water source to mitigate impacts.

68 Part 10

Part 10 may be amended to specify rules for extraction component dealings under section 71Q, 71S and 71W of the Act.

69 Part 11

Clause 63 may be amended to specify different standards for decommissioning water supply works or construction requirements for water supply works.

70 Schedules

- (1) Schedule 1 may be amended to add, modify and/or remove a definition.
- (2) Schedule 2 may be amended to do any of the following:
 - (a) add a new access licence to clause 1 of Schedule 2, provided that a written request has been made to the Minister, and the Minister is satisfied that extraction under the access licence is for a purpose listed in clause 41 (12) (a) and that purpose was specified on the former *Water Act 1912* entitlement that was replaced by the access licence or referred to in its conditions;
 - (b) add a local water utility access licence or an unregulated river (subcategory “town water supply”) access licence to clause 2 of Schedule 2, provided the Minister is satisfied that the water supply system used to extract, store and deliver water has not undergone major augmentation since the commencement of this Plan;
 - (c) remove an access licence or entitlement from Schedule 2 if:
 - (i) an access licence dealing results in the water being extracted under the licence being taken from a different location;
 - (ii) an alternative water supply is obtained; or
 - (iii) the licence is surrendered or cancelled or the purpose ceases to exist; or
 - (d) remove a local water utility or an unregulated river (subcategory “town water supply”) access licence or entitlement from clause 2 of Schedule 2 if the Minister is satisfied that the water supply system used to extract, store and deliver water has undergone major augmentation since the commencement of this Plan.

- (3) Schedule 2 may be deleted if the Minister is satisfied that it is no longer required.
- (4) Schedule 3 may be amended to:
- (a) add a new access licence to clause 1 of Schedule 3, provided that a written request has been made to the Minister, and the Minister is satisfied that extraction under the access licence is for a purpose listed in clause 42 (10) and (14) (a) and that purpose was specified on, or referred to in the conditions, of the former *Water Act 1912* entitlement that was replaced by the access licence;
 - (b) add a local water utility access licence or an aquifer (subcategory “town water supply”) access licence to clause 2 of Schedule 3, provided the Minister is satisfied that the water supply system used to extract, store and deliver water has not undergone major augmentation since the commencement of this Plan;
 - (c) add a local water utility access licence to clause 3 of Schedule 3, provided the Minister is satisfied that the water supply system used to extract, store and deliver water has not undergone major augmentation since the commencement of this Plan;
 - (d) remove a local water utility or an aquifer (subcategory “town water supply”) access licence or entitlement from clause 2 of Schedule 3 if the Minister is satisfied that the water supply system used to extract, store and deliver water has undergone major augmentation since the commencement of this Plan;
 - (e) remove a local water utility access licence or entitlement from clause 3 of Schedule 3 if the Minister is satisfied that the water supply system used to extract, store and deliver water has undergone major augmentation since the commencement of this Plan; or
 - (f) remove an access licence or entitlement from Schedule 3 if:
 - (i) an access licence dealing results in the water being extracted under the licence being taken from a different location;
 - (ii) an alternative water supply is obtained; or
 - (iii) the licence is surrendered or cancelled or its purpose ceases to exist.
- (5) Schedule 3 may be deleted if the Minister is satisfied that it is no longer required.
- (6) Schedule 4 may be amended to add or remove a contamination source.
-

- (7) Schedule 5 may be amended to:
 - (a) add or remove a sensitive environment area; or
 - (b) add a new high priority groundwater dependent ecosystem after year 5 of this Plan, or to remove a high priority groundwater dependent ecosystem.

71 Other

- (1) This Plan may be amended to provide for the management of floodplain harvesting within these water sources.
- (2) This Plan may be amended to include rules for any new category of access licence established for the purpose of stormwater harvesting, provided that the amendments do not affect the long-term average annual extraction limit specified in this Plan.
- (3) This Plan may be amended to provide for the interception of runoff from land before it reaches a stream by plantations or other means.
- (4) This Plan may be amended to allow for the granting of aquifer interference approvals and the management of aquifer interference activities.
- (5) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

Schedule 1 Dictionary

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

alluvial sediments means unconsolidated fluvio-lacustrine sediments.

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

fractured rock means sedimentary, igneous and metamorphic rocks with fractures, joints, bedding planes and cavities in the rock mass that are capable of transmitting water.

grazeable area means, for an individual landholding, the area of pasture in hectares for a pasture type that is accessible for stock grazing and able to grow appropriate vegetation for stock grazing, but does not include impervious surfaces (such as rocks or rocky terrain, man-made structures, mines or quarries), or other such surfaces that do not support grazing vegetation, such as water bodies and forested floors with no undergrowth.

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

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

in-river dam means a dam located in a river.

in-river dam pool means the area of water immediately upstream of an in-river dam where the river has pooled as a result of an in-river dam.

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

management zone is an area within a water source in which rules particular to that management zone will apply, for example daily extraction limits and restrictions on dealings.

mangrove limit is as defined in the *DIPNR Survey of tidal limits and mangrove limits in NSW estuaries 1996 to 2003* (NSW Dept of Commerce, Manly Hydraulics Laboratory).

porous rock means consolidated sedimentary rock containing voids, pores or other openings (joints, cleats, fractures) which are interconnected, in the rock mass and are capable of transmitting water.

Registered Map for these water sources has the meaning as in clause 4 (2) of this Plan.

replacement groundwater work has the same meaning as in clause 50 (2) of this Plan.

runoff harvesting dam has the same meaning as defined in the *Access Licence Dealing Principles Order 2004*.

slotted intervals means that part of the bore where slots in the casing occur which are designed to allow water to enter the bore.

stream order means the stream order defined by the Strahler stream ordering method.

Note. The Strahler stream ordering method is as described in the Order made under section 5 of the *Water Act 1912* published in the NSW Government Gazette No 37 on 24 March 2006 page 1500, or as may be amended or updated from time to time by further Order.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

visible flow means the continuous downstream movement of water that is perceptible to the eye.

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

water year means a year commencing 1 July.

Schedule 2 Access licences used to take surface water exempt from cease to pump rules

1 General

This clause applies to the following:

<i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan
10SL050439

2 Local water utility and unregulated river (subcategory “town water supply”) access licences

This clause applies to the following:

<i>Water Act 1912</i> entitlements that will be replaced by local water utility access licences or unregulated river (subcategory “town water supply”) access licences on commencement of this Plan
10SL042066
10SL045508
10SL055147

Schedule 3 Access licences used to take water from the alluvial sediments exempt from cease to pump rules

1 General

This clause applies to the following:

<i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan
10BL126233
10BL157925
10BL602656
10BL602821
10BL158681

2 Local water utility and aquifer (subcategory “town water supply”) access licences

This clause applies to the following:

<i>Water Act 1912</i> entitlements that will be replaced by local water utility access licences or aquifer (subcategory “town water supply”) access licences on commencement of this Plan
10BL157814
10BL157925
10BL163209

3 Local water utility access licences held by Bega Valley Shire Council in the Lower Towamba River Water Source

This clause applies to the following:

<i>Water Act 1912</i> entitlements that will be replaced by local water utility access licences on commencement of this Plan
10BL101261
10BL101262
10BL104484

***Water Act 1912* entitlements that will be replaced by local water utility access licences on commencement of this Plan**

10BL105071

10BL120338

10BL139024

Schedule 4 Contamination sources these water sources

Contamination sources in these water sources are the following:

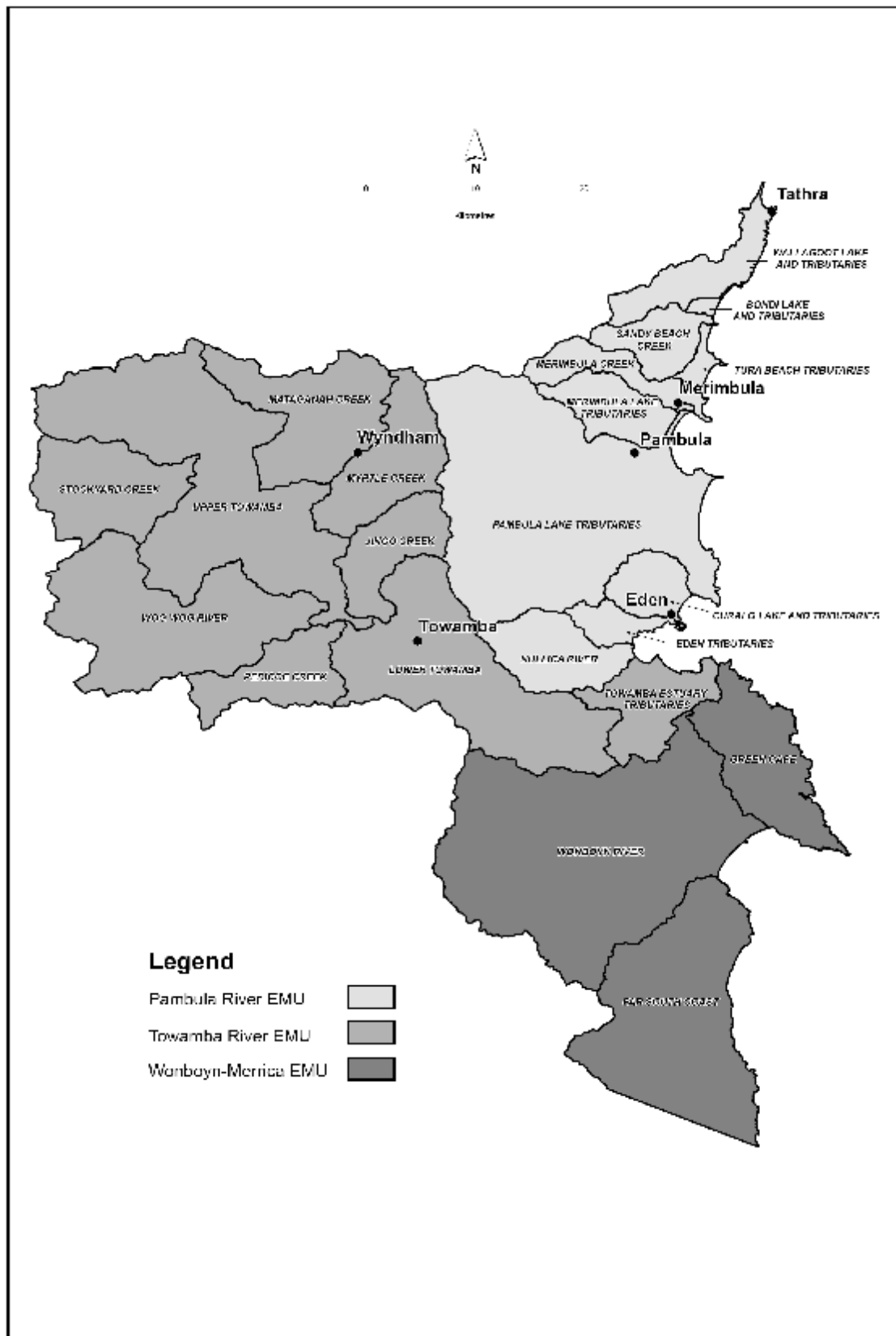
- (a) on site sewage disposal systems or septic tanks;
- (b) any sites which have been declared to be significantly contaminated land under the *Contaminated Land Management Act 1997*;
- (c) any sites with a historical use that is listed in Table 1 of *Managing Land Contamination. Planning Guidelines SEPP 55 – Remediation of Land*; and
- (d) any sites listed in an agency database relating to contamination sources.

Schedule 5 High priority groundwater dependent ecosystems

At the commencement of this Plan, no high priority groundwater dependent ecosystems have been identified in this Schedule.

Note. High priority groundwater dependent ecosystems (**GDEs**) are currently under investigation and some of these may be identified during the term of this Plan. The full list of potential GDEs will be identified on the NSW Office of Water GDE Register and as a precautionary approach, will be considered by staff in the assessment of any works approval within the Plan area. If verified as high priority groundwater dependent ecosystems, the Schedule will be amended to include further GDEs.

Appendix 1 Overview of the Registered Map



Appendix 2 Inspection of the Registered Map

Copies of the Registered Map for these water sources may be inspected at:

NSW Office of Water
Department of Environment, Climate Change and Water
10 Valentine Ave
PARRAMATTA NSW 2150

NSW Office of Water
Department of Environment, Climate Change and Water
Level 3, 84 Crown Street
WOLLONGONG NSW 2520

NSW Office of Water
Department of Environment, Climate Change and Water
Suite 2 Bega Centre
106 Auckland Street
BEGA NSW 2550

Appendix 3 Access licences with cease to pump thresholds that are higher than the upper limit of the relevant Very Low Flow Class or Low Flow Class

It is expected that at the time of commencement of this Plan, those access licences identified in Column 1 of the tables below, in the water sources specified in Column 2, will have the access rule specified in Column 3 imposed as a mandatory condition to give effect to clause 41 (3) of this Plan.

Column 1 <i>Water Act 1912 entitlements that will be replaced by access licences on commencement of this Plan</i>	Column 2 Water Source	Column 3 Access rules
10SL055736	Mataganah Creek	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 10 ML/day or less.
10SL055096	Upper Towamba	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 8.5 ML/day or less.
10SL055097	Upper Towamba	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 8.5 ML/day or less.
10SL055598	Upper Towamba	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 13 ML/day or less.

It is expected that at the time of commencement of this Plan, those access licences identified in Column 1 of the tables below, in the water sources specified in Column 2, will have the access rule specified in Column 3 imposed as a mandatory condition to give effect to clause 41 (5) of this Plan.

Column 1 <i>Water Act 1912 entitlements that will be replaced by access licences on commencement of this Plan</i>	Column 2 Water Source	Column 3 Access rules

