



New South Wales

# Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

under the

Water Management Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

PHILLIP COSTA, MP  
Minister for Water

## Explanatory note

The objects of this Regulation are:

- (a) to make provision with respect to entitlements under the *Water Act 1912* that authorise the taking of water from certain water sources, being entitlements that are to become access licences to which Part 2 of Chapter 3 of the *Water Management Act 2000* applies, and
- (b) to provide for the creation of new access licences that authorise the taking of tidal pool water from tidal pool water sources (for which no entitlement has previously been required under the *Water Act 1912*).

This Regulation is made under the *Water Management Act 2000*, including section 400 (1) (the general regulation-making power) and clause 1 of Schedule 9.

**2011 No 155**

Water Management (General) Amendment (Greater Metropolitan Region  
Clause 1 Water Sharing Plans) Regulation 2011

---

**Water Management (General) Amendment (Greater  
Metropolitan Region Water Sharing Plans) Regulation  
2011**

under the

Water Management Act 2000

**1 Name of Regulation**

This Regulation is the *Water Management (General) Amendment  
(Greater Metropolitan Region Water Sharing Plans) Regulation 2011*.

**2 Commencement**

This Regulation commences on 1 July 2011 and is required to be  
published on the NSW legislation website.

---

## Schedule 1      Amendment of Water Management (General) Regulation 2004

### Part 3, Division 15

Insert before Part 4:

### Division 15      Replacement access licences for entitlements for certain Greater Metropolitan Water Sources (1 July 2011)

#### Subdivision 1      Preliminary

##### 29ZZN      Definitions

In this Division:

**confirmed history of water usage**, in relation to eligible land, means information that indicates the volume of tidal pool water that has been used on the land, and the purposes for which that water has been used, at any time between 1 July 2001 and 1 July 2011, established to the satisfaction of the Minister.

**eligible land** means any land on which the landholder of the land has used tidal pool water at any time between 1 July 2001 and 1 July 2011.

**Hawkesbury and Lower Nepean Rivers Water Source** means the water source of that name identified in the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*.

**Illawarra Rivers Water Source** means the water source of that name identified in the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*.

**Northern Sydney Rivers Water Source** means the water source of that name identified in the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*.

**replacement access licence** means an access licence that is taken to have arisen under this Subdivision.

**Shoalhaven River Water Source** means the water source of that name identified in the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*.

**Southern Sydney Rivers Water Source** means the water source of that name identified in the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*.

**tidal pool water** means water taken from a tidal pool water source.

**2011 No 155**

Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

Schedule 1

Amendment of Water Management (General) Regulation 2004

---

*tidal pool water source* means:

- (a) the following management zones in the Shoalhaven River Water Source:
  - (i) the Lower Shoalhaven River Catchment Management Zone,
  - (ii) the Broughton Mill Creek Management Zone,
  - (iii) the Jaspers Brush Creek and Tributaries Management Zone,
  - (iv) the Bomaderry Creek Management Zone, or
- (b) the following management zones in the Illawarra Rivers Water Source:
  - (i) the Minnamurra River Management Zone,
  - (ii) the Minnamurra Coastal Management Zone,
  - (iii) the Lake Illawarra Management Zone,
  - (iv) the Macquarie Rivulet Management Zone,
  - (v) the Wollongong Coastal Management Zone, or
- (c) the following management zones in the Hawkesbury and Lower Nepean Rivers Water Source:
  - (i) the Colo River Management Zone,
  - (ii) the Upper Hawkesbury River (Grose River to South Creek) Management Zone,
  - (iii) the Upper Hawkesbury River (South Creek to Cattai Creek) Management Zone,
  - (iv) the Upper Hawkesbury River (Cattai Creek to Colo River) Management Zone,
  - (v) the Lower Hawkesbury River Management Zone,
  - (vi) the Macdonald River Management Zone,
  - (vii) the Lower South Creek Management Zone,
  - (viii) the Cattai Creek Management Zone,
  - (ix) the Berowra Creek and Cowan Creek Management Zone,
  - (x) the Lower South Creek Management Zone,
  - (xi) the Grose River Management Zone,
  - (xii) the Lower Nepean River Management Zone,

- (d) the following management zones in the Southern Sydney Rivers Water Source:
  - (i) the Lower Woronora River Management Zone,
  - (ii) the Hacking River Management Zone,
  - (iii) the Lower Georges River and Bunburry Curran Creek Management Zone,
  - (iv) the Cabramatta Creek Management Zone,
  - (v) the Prospect Creek Management Zone,
  - (vi) the Cooks River and Botany Bay Management Zone,
  - (vii) the Southern Sydney Coastal Management Zone, or
- (e) the following management zones in the Northern Sydney Rivers Water Source:
  - (i) the Lower Parramatta River Management Zone,
  - (ii) the Lane Cove River Management Zone,
  - (iii) the Middle Harbour Management Zone,
  - (iv) the Northern Sydney Coastal Management Zone.

## **Subdivision 2 Access licences for tidal pool water sources**

### **29ZZO Temporary exemption from requirements for certain access licences and approvals**

- (1) All persons are exempt from:
  - (a) sections 60A (1) and (2), 60C (1)–(4) and 60D of the Act in relation to the taking of tidal pool water, and
  - (b) section 91A (1) of the Act in relation to the use of tidal pool water, and
  - (c) section 91B (1) of the Act in relation to:
    - (i) the use of any water supply work by which tidal pool water is taken (being a water supply work constructed before 1 July 2011), and
    - (ii) the maintenance and repair of any such work, for the period between 1 July 2011 and 1 July 2013 (inclusive).
- (2) Subclause (1) ceases to apply to a person in relation to land when the person is given notice under clause 29ZZP of the terms and conditions of the person's replacement access licence for the land.

## 2011 No 155

Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

Schedule 1 Amendment of Water Management (General) Regulation 2004

---

- (3) The Minister may in a particular case by notice in writing to a landholder of eligible land extend the period of an exemption conferred by subclause (1) in its application to the landholder if the Minister is satisfied that the extension is necessary to enable the Minister to establish the landholder's confirmed history of water usage.

### **29ZZP Replacement access licences arising from confirmed history of water usage**

- (1) A landholder of eligible land in respect of which there is a confirmed history of water usage is taken to hold an access licence (a *replacement access licence*), and such an access licence is taken to have arisen, on the following terms and conditions:
- (a) terms identifying:
    - (i) the category or subcategory of the licence, as determined by clause 29ZZQ, and
    - (ii) the share component of the licence, as determined by clause 29ZZR or 29ZZS, as the case requires, and
  - (b) the mandatory conditions referable to an access licence of the category or subcategory referred to in paragraph (a) (i).
- (2) A replacement access licence does not operate (and has no force or effect) until the Minister notifies the licence holder in writing of the terms and conditions of the licence referred to in subclause (1).
- (3) For the purpose of establishing the confirmed history of water usage for any eligible land, the Minister may require the landholder to furnish information relevant to that purpose.
- (4) The Minister is not required to issue a notice under subclause (2) if he or she is not satisfied that a confirmed history of water usage for eligible land has been established, whether because the landholder has failed to comply with a requirement under subclause (3) or otherwise.
- (5) This Subdivision does not operate:
- (a) to create a domestic and stock access licence (or an access licence of a subcategory of a domestic and stock access licence) in relation to land if:
    - (i) the land has frontage to a tidal pool water source, or
    - (ii) the share component of the licence, as determined by clause 29ZZR, would be zero or negative, or

- 
- (b) to create an unregulated river access licence (or an access licence of a subcategory of an unregulated river access licence) if the share component of the licence, as determined by clause 29ZZS, would be zero or negative.

**Note.** Because it is an access licence, a replacement access licence can be suspended, cancelled or compulsorily acquired under Division 6 of Part 2 of Chapter 3 of the Act, and discretionary conditions can be imposed under section 66. The licence holder will need to apply for any necessary water use approvals and water supply work approvals if he or she intends to take or use water under the authority of a replacement access licence.

**29ZZQ Categories of replacement access licence**

A replacement access licence is to be:

- (a) to the extent to which the confirmed history of water usage for the land indicates that tidal pool water has been used for domestic consumption or stock watering:
- (i) if the water has been used for both domestic consumption and stock watering, a domestic and stock access licence, or
  - (ii) if the water has been used for domestic consumption only, a domestic and stock [domestic] access licence, or
  - (iii) if the water has been used for stock watering only, a domestic and stock [stock] access licence, and
- (b) to the extent to which the confirmed history of water usage for the land indicates that tidal pool water has been used otherwise than for domestic consumption or stock watering:
- (i) an unregulated river access licence, or
  - (ii) an access licence of any subcategory of an unregulated river access licence.

**29ZZR Share component for domestic and stock access licences**

- (1) In relation to an entitlement or access licence in respect of a tidal pool water source in the Hawkesbury and Lower Nepean Rivers Water Source, the Southern Sydney Rivers Water Source or the Northern Sydney Rivers Water Source, the share component for a replacement access licence that is a domestic and stock access licence is to be as follows:
- (a) except as provided by paragraphs (b) and (c), 6.5 megalitres,

**2011 No 155**

## Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

## Schedule 1

Amendment of Water Management (General) Regulation 2004

---

(b) in the case of a domestic and stock [domestic] access licence, 1 megalitre,

(c) in the case of a domestic and stock [stock] access licence, 5.5 megalitres,

subtracting from each such volume the volume of any entitlement under the former 1912 Act that authorised the taking of tidal pool water for domestic consumption or stock watering (or both).

(2) In relation to an entitlement or access licence in respect of the Shoalhaven River Water Source or the Illawarra Rivers Water Source, the share component for a replacement access licence that is a domestic and stock access licence is to be as follows:

(a) except as provided by paragraphs (b) and (c), 5.5 megalitres,

(b) in the case of a domestic and stock [domestic] access licence, 1 megalitre,

(c) in the case of a domestic and stock [stock] access licence, 4.5 megalitres,

subtracting from each such volume the volume of any entitlement under the former 1912 Act that authorised the taking of tidal pool water for domestic consumption or stock watering (or both).

**29ZZS Share component for unregulated river access licences**

(1) The share component for a replacement access licence that is an unregulated river access licence is to be the amount (in megalitres) equivalent to the maximum average volume of tidal pool water taken annually and used on the eligible land concerned, otherwise than for domestic consumption or stock watering, between 2001 and 2011 (inclusive).

(2) The reference in subclause (1) to the maximum average volume of water is a reference to:

(a) if water was taken during only one of the years between 2001 and 2011, the volume of water taken during that year, or

(b) if water was taken during only 2 of the years between 2001 and 2011, one half of the sum of the volumes of water taken annually during those years, or

(c) if water was taken during 3 or more of the years between 2001 and 2011, one third of the sum of the 3 largest volumes of water taken annually during those years,

subtracting from each such volume the volume of any entitlement under the former 1912 Act that authorised the taking of tidal pool



- 
- water, other than an entitlement that authorised the taking of tidal pool water for domestic consumption or stock watering (or both).
- (3) To the extent to which the confirmed history of water usage for the land indicates that tidal pool water has been used for purposes other than:
- (a) irrigation, or
  - (b) domestic consumption, or
  - (c) stock watering,
- the volume of water taken in any year is to be calculated (in megalitres) on the basis of that history.
- (4) To the extent to which the confirmed history of water usage for the land indicates that tidal pool water has been used for the purposes of irrigation, the volume of water taken in any year for those purposes is to be calculated (in megalitres):
- (a) in the case of water taken from a tidal pool water source in the Shoalhaven River Source or the Illawarra Rivers Water Source:
    - (i) if the confirmed history of water usage for the land indicates which crops specified in Table 1 to this clause were grown under irrigation on which parts of the land during that year, as the sum of the amounts obtained by multiplying the number of hectares of land on which each such crop was grown (as indicated by the confirmed history of water usage) by the factor specified in that Table in relation to that crop, or
    - (ii) in any other case, as the amount obtained by multiplying the number of hectares of the land on which crops specified in Table 1 to this clause were grown under irrigation during that year (as indicated by the confirmed history of water usage for the land) by the smallest factor specified in that Table in relation to those crops, and
  - (b) in the case of water taken from a tidal pool water source in the Hawkesbury and Lower Nepean Rivers Water Source, the Southern Sydney Rivers Water Source or the Northern Sydney Rivers Water Source:
    - (i) if the confirmed history of water usage for the land indicates which crops specified in Table 2 to this clause were grown under irrigation on which parts of the land during that year, as the sum of the amounts obtained by multiplying the number of

**2011 No 155**

## Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

## Schedule 1

## Amendment of Water Management (General) Regulation 2004

hectares of land on which each such crop was grown (as indicated by the confirmed history of water usage) by the factor specified in that Table in relation to that crop, or

- (ii) in any other case, as the amount obtained by multiplying the number of hectares of the land on which crops specified in Table 2 to this clause were grown under irrigation during that year (as indicated by the confirmed history of water usage for the land) by the smallest factor specified in that Table in relation to those crops.
- (5) Where more than one crop has been grown on the same land in the same year, the land may not be counted more than once for the purposes of subclause (4), but the higher or highest of the factors relevant to those crops is to be used.
- (6) For the purposes of this clause, a reference to a crop specified in Table 1 or Table 2 to this clause includes a reference to any other crop that the Minister determines to be an equivalent to that crop.

**Table 1 Shoalhaven River Water Source and Illawarra Rivers Water Source**

<b>Crop under irrigation</b>	<b>Factor</b>
Winter cereal	1
Summer cereal	2.5
Citrus	3.5
Vines	1.5
Summer oilseeds	3
Perennial pasture (dairy)	6.5
Perennial pasture (non-dairy)	4.5
Annual pasture	1.5
Lucerne	5
Vegetables	4.5
Orchards	5.5
Nuts	5.5
Pulses	2.5
Olives	3
Turf	8.5

---

<b>Crop under irrigation</b>	<b>Factor</b>
Cut flowers	4.5
Inactive areas	1

**Table 2 Hawkesbury and Lower Nepean Rivers Water Source, Southern Sydney Rivers Water Source and Northern Sydney Rivers Water Source**

<b>Crop under irrigation</b>	<b>Factor</b>
Winter cereal	2.5
Summer cereal	3
Citrus	6
Vines	3
Perennial pasture (dairy)	7
Perennial pasture (non-dairy)	5
Annual pasture	3
Lucerne	6
Vegetables	7.5
Orchards	6
Nuts	6
Olives	5
Turf	11
Cut flowers	5
Inactive area	2.5

**Example 1.** Suppose, in respect of any year, 30 hectares of a landholding were under irrigation, of which 10 hectares were used for growing lucerne, 10 hectares were used for annual pasture and 10 hectares were used for vegetables (as indicated by the confirmed history of water usage for the land). The factors for these crops (using Table 1) are 5 (for lucerne), 1.5 (for annual pasture) and 4.5 (for vegetables). The volume of water calculated for that year for the land would therefore be 110 megalitres (that is, 10 times 5, plus 10 times 1.5, plus 10 times 4.5: see subclause (4) (a)).

**Example 2.** Suppose, in respect of any year, 30 hectares of a landholding were under irrigation, of which some were used for growing lucerne, some were used for annual pasture and some were used for vegetables (the specific areas not indicated by the confirmed history of water usage for the land). The factors for these crops (using Table 1) are 5 (for lucerne), 1.5 (for annual pasture) and 4.5 (for vegetables). The

## 2011 No 155

Water Management (General) Amendment (Greater Metropolitan Region Water Sharing Plans) Regulation 2011

Schedule 1 Amendment of Water Management (General) Regulation 2004

---

volume of water calculated for that year for the land would therefore be 45 megalitres (that is, 30 times 1.5: see subclause (4) (b)).

**Example 3.** Suppose, in respect of any year, 30 hectares of a landholding were under irrigation, of which all 30 were used for growing summer cereals (in summer) and all 30 were used for growing winter cereals (in winter). The factors for these crops (using Table 1) are 2.5 (for summer cereals) and 1 (for winter cereals). The volume of water calculated for that year for the land would therefore be 75 megalitres (that is, 30 times 2.5: see subclauses (4) (a) and (5)).

### 29ZZT Conversion of share components of access licence

Clause 7 of Schedule 10 to the Act applies to and in respect of a replacement access licence in the same way as it applies to and in respect of an access licence arising under that Schedule.

**Note.** This clause enables the share component of an access licence under this Subdivision to be converted from a specified quantity of water to any other manner (such as a unit share) in which a share component may be expressed under section 56 of the Act.

## Subdivision 3 Security interests

### 29ZZU Application of Subdivision

This Subdivision applies to and in respect of each entitlement with respect to water sources to which any of the following applies and to and in respect of each access licence arising from any such entitlement:

- (a) the *Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011*,
- (a) the *Water Sharing Plan for the Greater Metropolitan Region Groundwater Sources 2011*.

### 29ZZV Registration of security interests in replacement access licences

- (1) Pursuant to clause 1 of Schedule 9 to the Act, clause 19 of Schedule 10 to the Act is to be construed as if the reference in clause 19 (5) to the commencement of Part 2 of Schedule 10 to the Act were a reference to 1 July 2011.
- (2) Pursuant to clause 1 of Schedule 9 to the Act, the following subclauses are taken to be inserted after clause 19 (10) of Schedule 10 to the Act:
  - (10A) Subclause (10B) applies only to an access licence arising from an entitlement with respect to land in respect of which an interest was, immediately before 1 July 2011, registered under the *Real Property Act 1900* or under the *Corporations Act 2001* of the Commonwealth.

- 
- (10B) No dealing that requires the consent of the holder of a security interest may be registered in relation to an access licence until the expiry of the prescribed period unless, before the expiry of that period, the holder of the interest:
- (a) has lodged with the Director-General a notice of the kind referred to in subclause (5) (d), or
  - (b) has notified the Director-General that the holder does not propose to seek registration of the interest in the Access Register.

**29ZZW Entitlements held by 2 or more co-holders**

Pursuant to clause 1 of Schedule 9 of the Act, clause 23 of Schedule 10 to the Act is taken to have been replaced by the following clause:

**23 Entitlements held by 2 or more co-holders**

Two or more co-holders of a replacement access licence are taken to hold the access licence:

- (a) if the Minister has a record of the shares in which the former entitlement was held immediately before the appointed day, in the same shares as the former entitlement was so held, or
- (b) if the Minister has no such record, but within 2 months after sending a written request to the co-holders seeking information as to their shareholding the Director-General receives:
  - (i) a notice, signed by or on behalf of each of them, by which they agree as to the shares in which they hold the access licence, or
  - (ii) a notice, signed by any one of them, to the effect that legal proceedings have been commenced for the purpose of obtaining a declaration as to the shares in which they hold the access licence, in the agreed shares referred to in the notice under subparagraph (i), or in the shares determined pursuant to the legal proceedings referred to in the notice under subparagraph (ii), as the case may be, or

**2011 No 155**

Water Management (General) Amendment (Greater Metropolitan Region  
Water Sharing Plans) Regulation 2011

Schedule 1

Amendment of Water Management (General) Regulation 2004

---

- (c) in any other case, as tenants in common with the entitlements conferred by the licence under section 56 apportioned equally between them.