



# Water Management (General) Amendment (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*.

KATRINA HODGKINSON, MP  
Minister for Primary Industries

## Explanatory note

The objects of this Regulation are:

- (a) to prescribe a new category of access licence to which Part 2 of Chapter 3 of the *Water Management Act 2000* applies, and
- (b) to make provision with respect to entitlements under the *Water Act 1912* that authorise the taking of water from certain water sources in the Western and Central West Water Management Areas, being entitlements that are to become access licences to which Part 2 of Chapter 3 of the *Water Management Act 2000* applies.

This Regulation is made under the *Water Management Act 2000*, including sections 57 (1) (1) and 400 (the general regulation-making power) and clause 1 of Schedule 9.

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Clause 1 Regulation 2011

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**Water Management (General) Amendment (Water Sharing Plans) Regulation 2011**

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Water Management Act 2000

**1 Name of Regulation**

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

**2 Commencement**

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

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## **Schedule 1      Amendment of Water Management (General) Regulation 2011**

### **[1]    Clause 4 Categories of access licence**

Insert after clause 4 (1) (h):

- (i) unregulated river (special additional high flow) access licence.

### **[2]    Schedule 4 Access licences and approvals arising from former entitlements, and certain deemed approvals—particular provisions**

Insert immediately after the heading to Part 2:

## **Division 1A      Security interests in and co-holders of replacement access licences**

### **1A    Application of Division**

- (1) This Division applies to and in respect of each entitlement with respect to each of the following water sources, and to each access licence arising from any such entitlement:
  - (a) the water sources to which the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011* applies,
  - (b) the water sources to which the *Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2011* applies.
- (2) A reference in this Division to the appointed day is a reference to the appointed day for the entitlement or access licence concerned.

### **1B    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 the appointed day.
- (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 the appointed

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day, 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.

**1C 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

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

**[3] Schedule 4, Part 2, Division 14**

Insert after Division 13:

**Division 14 Replacement access licences for certain entitlements for the Castlereagh (1 October 2011)**

**84A Application of Division**

This Division applies to and in respect of the entitlements identified as licence numbers 80SL044829H and 80SL044904H with respect to water sources to which the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011* applies.

**84B Unregulated river (special additional high flow) access licences**

- (1) Pursuant to clause 1 of Schedule 9 to the Act, the following subclause is taken to be inserted after clause 4 (4) of Schedule 10 to the Act:

- (5) This clause does not apply to an entitlement referred to in clause 84A of Schedule 4 to the *Water Management (General) Regulation 2011*.

- (2) Pursuant to clause 1 of Schedule 9 to the Act, the following clause is taken to be inserted after clause 4 of Schedule 10 to the Act:

**4A Unregulated river (special additional high flow) access licences**

An entitlement referred to in clause 84A of Schedule 4 to the *Water Management (General) Regulation 2011* is taken to have been replaced by an unregulated river (special additional high flow) access licence.

- (3) Pursuant to clause 1 of Schedule 9 to the Act, the following subclause is taken to be inserted after clause 5 (4) of Schedule 10 to the Act:

- (5) Subclause (1) does not apply to an entitlement referred to in clause 84A of Schedule 4 to the *Water Management (General) Regulation 2011*.