



Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources Amendment Order 2013

under the

Water Management Act 2000

I, the Minister for Primary Industries, in pursuance of section 45 (1) (a) of the *Water Management Act 2000*, being satisfied it is in the public interest to do so, make the following Order to amend the *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008*.

Dated this 22nd day of February 2013.

KATRINA HODGKINSON, MP
Minister for Primary Industries

Explanatory note

This Order is made under section 45 (1) (a) of the *Water Management Act 2000*. The object of this Order is to amend the *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008*. The concurrence of the Minister for the Environment was obtained prior to the making of this Order.

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1 Name of Order

This Order is the *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources Amendment Order 2013*.

2 Commencement

This Order commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008

[1] Clause 5 Waters to which this Plan applies

Omit clause 5 (1). Insert instead:

(1) These water sources in respect of which this Plan is made, and shown on the plan map called *Plan Map (WSP0002_Version 1). Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008* (hereafter ***the Plan Map***), are:

(a) Bellinger River Water Source,

(b) Boggy Creek Water Source,

(c) Coastal Bellinger Water Source,

Note. This water source excludes alluvial groundwater downstream of the tidal limits.

(d) Coastal Kalang Water Source,

Note. This water source excludes alluvial groundwater downstream of the tidal limits.

(e) Dalhousie Creek Water Source,

(f) Hydes Creek Water Source,

Note. This water source excludes alluvial groundwater downstream of the tidal limits.

(g) Kalang River Water Source,

Note. This water source excludes alluvial groundwater downstream of the tidal limits.

(h) Never Never Creek Water Source,

(i) Rosewood Creek Water Source,

(j) Spicketts Creek Water Source, and

(k) Thora - North Arm Bellinger River Water Source.

Note. The Plan Map is part of this Plan. An overview of these water sources is shown in Appendix 1. The Plan Map referred to in this Plan may be inspected at offices listed in Appendix 2 and is available at the NSW Legislation website.

[2] Clause 5 (2), (5) and (6), Clause 16 (2), Clause 17 (5) and Notes

Omit “registered plan called The Bellinger River Area Unregulated and Alluvial Water Sources (Plan No. WSP 0002) held in the Department of Water and Energy’s Head Office” wherever occurring. Insert instead “Plan Map”.

[3] Clause 5 (6) (b) (ii)

Omit “groundwaters”. Insert instead “groundwater”.

[4] Clause 17 Flow reference point

Omit clause 17 (1). Insert instead:

- (1) Subject to clause 19, for the purposes of this Plan all flows referred to relate to the measured flows at the flow reference points for each water source or management zone specified in clause 18.

[5] Clause 18 Flow classes for these water sources

Omit “, except where provided under clause 65 (2) of this Plan” from the note to clause 18 (1).

[6] Clause 18 (1), Note

Insert “, except where provided under clause 65 (2) of this Plan” after “will not apply”.

[7] Clauses 18 (1) and 21 and Notes

Omit “runoff harvesting work” wherever occurring. Insert instead “runoff harvesting dam”.

[8] Clauses 18, 35, 71, Schedule 2 and Notes

Omit “unregulated river (Aboriginal commercial)” wherever occurring. Insert instead “unregulated river (subcategory “Aboriginal community development”)”.

[9] Clauses 18, 32, 35, 43, 44, 49, 57, 72, 73, 74, 76 and Notes

Omit “unregulated river high flow” and “unregulated high flow” wherever occurring. Insert instead “unregulated river (high flow)”.

[10] Clause 18 (1) (e) (i)

Omit “hereafter”.

[11] Clause 18 (2) (a)

Omit “system”. Insert instead “water source”.

[12] Clause 18 (2) (b)

Omit “system”. Insert instead “management zone”.

[13] Clause 18 (2) (f)

Omit “with a range”. Insert instead “within the range”.

[14] Clause 19

Omit this clause. Insert instead:

19 Determination of flow management

If in the Minister’s opinion, on any day accurate flow data is not available from a flow measuring gauge used to determine a flow class specified in clause 18 (1), the Minister may determine the flow class that applies for that day and notify the licence holder in writing, the flow class that applies for that day. For the purpose of this clause, notification includes publishing a notice on the Department’s website.

Note. There is a general requirement for holders of water supply work approvals to record in a Logbook, where one is required to be kept, a confirmation and means of confirmation that the relevant cease to take conditions do not apply before taking water. Holders of access licences may contact the Department’s Grafton office at the address listed in Appendix 2 or check the Department’s website to find out what flow class applies that day and note this as required in the Logbook. In determining whether access to water is permitted that day, the Minister may take into consideration evidence of past and current flows and readings at other functioning gauges.

[15] Clause 21 Planned environmental water

Omit clause 21 (3). Insert instead:

(3) Subject to subclause (5), the planned environmental water established in clause 21 (1) (b) is maintained as follows:

(a) subject to paragraph (g), water must not be taken under an 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 relevant Very Low Flow Class,

Note. Water sources and management zones with a Very Low Flow Class are specified in clause 18.

(b) subject to paragraph (g), water must not be taken under an access licence where a cease to take condition that was specified on the *Water Act 1912* entitlement that the access licence replaces is, in the Minister's opinion, higher than:

(i) the upper limit of the relevant Very Low Flow Class (as specified in clause 18), or

(ii) the access rule specified in paragraph (c),

when flows are at or less than the cease to take condition that was specified on the replaced *Water Act 1912* entitlement,

(c) subject to paragraph (g), an access licence must not be used to take water:

(i) if there is no visible flow in the water source at the location at which water is proposed to be taken, or

(ii) where water is being taken from a pool, if there is no visible inflow and outflow to and from that pool,

(d) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Bellinger River Water Source for more than 8 hours per day when the flow of water in the Bellinger River at the Bellinger River at Thora gauge is greater than 16 ML/day and less than or equal to 32 ML/day,

(e) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Hydes Creek Water Source for more than 8 hours per day when the flow of water in Hydes Creek at the Hydes Creek at Kethels Road Bridge gauge is greater than 1 ML/day and less than or equal to 4 ML/day,

(f) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Never Never Water Source for more than 8 hours per day when the flow of water in Never Never Creek at Promised Land Loop Road immediately upstream of the Arthur Keogh Reserve is greater than 2 ML/day and less than or equal to 9 ML/day,

(g) paragraphs (a)–(f) do not apply to the following:

(i) the taking of water under an access licence (excluding a local water utility access licence) to which Schedule 3 applies, for any purpose listed below, provided that the volume of water taken does not exceed 20 kilolitres per day per access licence or such lower amount specified in accordance with paragraph (h):

(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,
- (ii) the taking of water from a runoff harvesting dam or from an in-river dam pool,
 - (iii) the taking of water under all access licences that nominate a water supply work that may be used to take water from the alluvial sediments in these water sources to which the access rules for unregulated river access licences do not apply as specified in clause 65, and
 - (iv) the taking of water for the purposes of town water supply only under a local water utility access licence to which Schedule 3 applies, until such time as the Minister is satisfied that major augmentation of the access licence holder's water supply system has occurred,
- (h) the Minister may, in relation to an access licence to which paragraph (g) (i) applies, amend the licence to reduce the maximum daily volume limit, if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose for the licence as referred to in paragraph (g) (i),
 - (i) the access rules specified in clauses 39A and 65 which apply to access licences that nominate a water supply work that may be used to take water from the alluvial sediments in these water sources as specified in those clauses,
 - (j) water must not be taken under an unregulated river (high flow) access licence or an unregulated river (subcategory "Aboriginal community development") access licence when flows are in the Very Low Flow Class or A Class,
 - (k) water must not be taken from an in-river dam pool unless the in-river dam is passing such flows in such circumstances as specified on the water supply work approval for the in-river dam,
 - (l) the flows and circumstances to be specified on the water supply work approval for the in-river dam referred to in paragraph (k) are:
 - (i) the flows and circumstances that were specified in conditions on the *Water Act 1912* entitlement that the approval replaces, or
 - (ii) where no flows and circumstances were specified on the *Water Act 1912* entitlement, the flows and circumstances determined by the Minister.

[16] Clause 21 (4)

Omit "the Kalang River Water Source".

[17] Clause 21 (5)

Insert after clause 21 (4):

- (5) Subclause (3) does not apply to the taking of water under an access licence that is used only to account for the taking of water in association with an aquifer interference activity.

[18] Clause 22 Adaptive environmental water

Omit the clause.

[19] Clause 32 Share component of unregulated river high flow access licences

Omit “the” after “to be converted to” in the note to clause 32.

[20] Clauses 35, 72, 73 and 76

Omit “tidal pool management zone” wherever occurring. Insert instead “Tidal Pool Management Zone”.

[21] Clause 35 Rules for granting access licences

Omit “(Aboriginal cultural)” from clause 35 (2) (d). Insert instead “(subcategory “Aboriginal cultural”).

[22] Clause 35 (2) (f), Note

Omit “eg” from the first note to clause 35 (2) (f). Insert instead “e.g.”

[23] Clause 35 (2) (f), Note

Omit the second note to clause 35 (2) (f). Insert instead:

Note. An unregulated river (subcategory “Aboriginal community development”) access licence is a specific purpose access licence and as such can only be the subject of limited trade that is consistent with the purpose for which the licence was granted. Aboriginal communities, enterprises and individuals are encouraged to seek financial assistance from funding bodies to purchase other categories of access licence if they require fully tradable licences.

[24] Clause 35 (3)

Omit the subclause. Insert instead:

- (3) Licences under subclause (2) (e) can only be granted to those water users previously exempted from requiring a *Water Act 1912* entitlement.

[25] Clause 35 (5) (c)

Omit “2”. Insert instead “(2)”.

[26] Clauses 37 and 38

Omit the clauses. Insert instead:

37 Runoff harvesting dams and in-river dams

If the sum of the share components of access licences nominating a water supply work that is a runoff harvesting dam or an in-river dam is reduced via:

- (a) a dealing,
- (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent cancellation of an access licence under section 77A (6) of the Act,
- (c) the amendment of the share component of the access licence by the Minister under section 68A, or
- (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act,

the Minister may require the modification of the dam to ensure that the capability of the dam to capture water is reduced to reflect the reduction in share component.

Note. Runoff harvesting dam and in-river dam are defined in the Dictionary.

[27] Clause 39 Rules for granting or amending water supply works (bore) approvals

Omit “(bore)” from the heading to this clause.

[28] Clause 39 (1)

Omit “to ensure minimal harm to groundwater”.

Insert instead “to ensure no more than minimal harm to groundwater sources”.

[29] Clause 39 (2)

Omit the subclause. Insert instead:

- (2) To minimise interference between water supply works in these water sources, the Minister must not grant an approval under section 95 of the Act or amend an approval under section 107 of the Act, where a water supply work being constructed or used to take water from the alluvial sediments in these water sources is proposed to be located within:
- (a) 200 metres of a water supply work being constructed or used to take water from the alluvial sediments in these water sources nominated by another access licence,
 - (b) 200 metres of a water supply work being constructed or used to take water from the alluvial sediments in these water sources from which basic landholder rights is being extracted,
 - (c) 100 metres from the property boundary, unless negotiated with a neighbour for a lesser distance,
 - (d) 500 metres from a water supply work being constructed or used to take water from the alluvial sediments in these water sources from a local water utility or a major utility, and
 - (e) 100 metres from a Departmental observation or monitoring bore, unless a lesser distance is negotiated with the Department.

Note. The distance restrictions in this clause apply to new or amended approvals. The distance restrictions also apply when a licence holder wants to nominate new or different works on an access licence.

[30] Clause 39 (4)

Omit “may be amended by the Minister”. Insert instead “do not apply”.

[31] Clause 39 (5)

Omit “Division 4 Part 11”. Insert instead “Division 4 of Part 11”.

[32] Clause 39 (6)

Omit the subclause. Insert instead:

- (6) The Minister must not grant an approval under section 95 of the Act or amend an approval under section 107 of the Act, where a water supply work being constructed or used to take water from the alluvial sediments in these water sources is proposed to be located within:
- (a) 100 metres of a contamination source as listed in Schedule 4, unless the proponent can demonstrate to the Minister’s satisfaction that a lesser distance will result in no

more than minimal harm to the water source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health, or

- (b) a greater distance than in paragraph (a) that the Minister nominates in order to ensure that no more than minimal harm will occur to the groundwater source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health.

[33] Clauses 39 (7), 69 (6), 72 (2) (f) and 73 (5)

Omit “water supply work (bore)” wherever occurring. Insert instead “water supply work being constructed or used to take water from the alluvial sediments in these water sources”.

[34] Clause 39 (10)

Omit the subclause. Insert instead:

- (10) Unless the application is for a replacement water supply work that is part of a bore network for a local water utility or town water supply, the Minister must not grant a new approval under section 95, or an amended approval under section 107 in these water sources, if it would result in a water supply work being constructed or used to take water from the alluvial sediments in these water sources being authorised to extract water:
 - (a) for basic landholders rights only, within 100 metres of a high priority groundwater dependent ecosystem, excluding high priority karst environment groundwater dependent ecosystems, listed in and shown on the maps in Schedule 5, or
 - (b) from an access licence, within 200 metres of a high priority groundwater dependent ecosystem, excluding high priority karst environment groundwater dependent ecosystems, listed in and shown on the maps in Schedule 5, or
 - (c) within 500 metres of a high priority karst environment groundwater dependent ecosystem, listed in and shown on the maps in Schedule 5, or
 - (d) within 40 metres of the top of the high bank of any third order or above stream, or lagoon, or
 - (e) within 40 metres of any first and second order stream, unless the water supply work being constructed or used to take water from the alluvial sediments in these water sources is drilled into the underlying parent material, and the slotted intervals of the works commences deeper than 30 metres.

Note. Subclause (10) will not apply to current authorised extraction from an existing water supply work which may be used to take water from the alluvial sediments in these water sources at current or equal share component.

[35] Clause 39 (11) and (12)

Omit the clauses. Insert instead:

- (11) The distance restrictions specified in subclause 10 (a) and (b) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that no drawdown of water will occur at the perimeter of any groundwater dependent ecosystem listed in Schedule 5.
- (12) The distance restriction specified in subclause 10 (e) does not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that a water supply work being constructed or used to take water from the alluvial sediments in these water sources will have minimal impact on base flows in the stream.

(12A) For the purpose of subclauses (11) and (12) the Minister may require the applicant to submit a hydrogeological study.

[36] Clause 39 (13)

Omit the subclause. Insert instead:

(13) Subclause (10) (d) and (10) (e) does not apply to a new water supply work being constructed or used to take water from the alluvial sediments in these water sources required as part of a dealing involving the conversion of an unregulated river access licence to an aquifer access licence under section 71O of the Act and clause 74 of this Plan.

[37] Clause 39 (17)

Omit the subclause. Insert instead:

(17) The distance restrictions specified in subclauses (2), (6), (7) and (10) do not apply if the Minister is satisfied that the water supply work being constructed or used to take water from the alluvial sediments in these water sources is for monitoring or environmental management or remedial purposes.

[38] Clause 39A

Insert after clause 39:

39A Rules for the use of water supply works located within restricted distances

- (1) The rules in this clause apply to water supply work approvals for water supply works that are authorised to take water from the alluvial sediments in these water sources.
- (2) Subject to subclauses (3) and (4), a water supply work that is located within a restricted distance specified in clause 39, 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.
- (3) Subject to subclause (4), a water supply work that becomes located within a restricted distance specified in clause 39, as a result of an amendment to this Plan must 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 date of the amendment.
- (4) Subclauses (2) and (3) do not apply:
 - (a) where a restricted distance does not apply in accordance with clause 39 (3) (a), (4), (6), (11), (12), or (17), or
 - (b) to the taking of water pursuant to basic landholder rights.
- (5) The Minister may specify a daily rate or annual volumetric limit for water taken by a water supply work that is located within a restricted distance specified in clause 39 pursuant to clause 39 (4), (6), (7), (11) and (12).
- (6) The daily rate or annual volumetric limit specified under subclause (5) will be as determined by the Minister to meet the relevant criteria specified in clauses 39 (4), (6), (7), (11) and (12).

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.

[39] Clause 44 Compliance with the long-term average annual extraction limits

Omit clause 44 (1) and (2). Insert instead:

- (1) The total water extracted pursuant to basic landholder rights and access licences in these Units will be assessed each water year to determine if the long-term average annual extraction limit established by clause 42 for each extraction management unit has been exceeded.

Note. A water year is defined in Schedule 1 as any 12 month period from 1 July.

- (2) Commencing in the fourth water year in which this Plan has effect, the assessment referred to in subclause (1) must compare the long-term average annual extraction limits established in clause 42 for the respective extraction management unit against the annual extraction averaged over the preceding three water years for that extraction management unit.

[40] Clause 56 Limits to the volume that may be taken under access licences

Omit clause 56 (2) and (3). Insert instead:

- (2) For the period of any three consecutive water years after the first water year in which this Plan has effect, water taken under a domestic and stock access licence, a local water utility access licence, an unregulated river (high flow) access licence, an unregulated river 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 three water years,
- (ii) the water allocations carried over from the water year prior to those three water years under clause 57,
- (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 three water 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 three water 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 three water 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 three water years.

- (3) 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, local water utility access licence, unregulated river access licence, unregulated river (high flow) access licence or an aquifer access licence to which this clause applies must not exceed a volume equal to:
- (a) 50% 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 water 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 water years.

[41] Clause 64 Very low flow access in these water sources

Omit clause 64 (1)–(5).

[42] Clause 64 (6) and (7)

Omit “subclause (2)” wherever occurring. Insert instead “clause 21 (3) (g) (i)”.

[43] Clause 64 (9) and (10)

Insert after clause 64 (8):

- (9) The Minister may add an access licence or a *Water Act 1912* entitlement to Schedule 3 if the Minister is satisfied that the water supply system used to take, store and deliver water has not undergone major augmentation since the commencement of this Plan.
- (10) The Minister may remove an access licence or *Water Act 1912* entitlement from Schedule 3 if the Minister is satisfied that the water supply system used to take, store and deliver water has undergone major augmentation since the commencement of this Plan.

[44] Clause 65

Omit the clause. Insert instead:

65 Access rules for the taking of water from the alluvial sediments in these water sources

- (1) Subject to subclause (5), except for the taking of water under an aquifer access licence to which subclause (2) applies, the taking of water under an aquifer access licence which nominates a water supply work which may be used to take water from the alluvial sediments in these water sources that is located at or less than 40 metres from the top of the high bank of a river, will, from year six of this Plan, be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or management zone.
- (2) Subject to subclause (5), the taking of water under an aquifer access licence which arises from a dealing involving the conversion of an unregulated river access licence to an aquifer access licence will be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or management zone.

- (3) Subject to subclause (5), the taking of water under a local water utility access licence which nominates a new water supply work which may be used to take water from the alluvial sediments in these water sources that is located at or less than 40 metres from the top of the high bank of a river will be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or management zone.
- (4) For the purpose of this clause, an access rule specified in clause 21 that requires a visible flow at the location at which water is proposed to be taken shall be taken to mean a visible flow in the river immediately adjacent to the water supply work being used to take water from the alluvial sediments.
- (5) Subclauses (1)–(3) do not apply to the taking of water under an access licence that is used only to account for the taking of water in association with an aquifer interference activity for a state significant mining development approved under Part 3A, or Part 4.1 or for state significant infrastructure approved under Part 5.1 under the *Environmental Planning and Assessment Act 1979*.

[45] Clauses 69 (4), 72 (2) (a) and (b), 73 (4) and 76

Omit “water supply works (bores)” wherever occurring. Insert instead “water supply works which may be used to take water from the alluvial sediments in these water sources”.

[46] Clauses 73 (5)

Omit “water supply work (bore)” wherever occurring. Insert instead “water supply work which may be used to take water from the alluvial sediments in these water sources”.

[47] Clause 73 (5)

Omit “water supply works (bore)” wherever occurring. Insert instead “water supply work which may be used to take water from the alluvial sediments in these water sources”.

[48] Clause 71 Access licence dealing rules

Omit the fourth note to clause 71 (4).

[49] Clause 72, 73 and 76

Omit “non tidal management zone” wherever occurring. Insert instead “Non Tidal Management Zone”.

[50] Clause 74 Rules for conversion of access licence category

Omit “2” from clause 74 (3) and (4). Insert instead “(2)”.

[51] Clause 76 Rules for water allocation assignments between water sources

Omit “Part 11, Division 4” from clause 76 (2). Insert instead “Part 11 of Division 4”.

[52] Part 13

Omit Part 13. Insert instead:

Part 13 Mandatory conditions

Note. Part 15 allows for amendments to be made to this Part.

Division 1 General

78 General

In this Part:

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to the address listed in Appendix 3 of this Plan or to the email address for the Department's Licensing Enquiries Information Centre,

Note. The email address for the Department's Licensing Enquiries Information Centre is information@water.nsw.gov.au.

- (b) a *metered water supply work with a data logger* means a water supply work with a data logger and a meter that complies with *Australian Technical Specification ATS 4747, Meters for non-urban water supply* as may be updated or replaced from time to time, and

Note. The definition of metered water supply work with a data logger does not include all water supply works that are metered or that have a data logger. The water supply work must meet the parameters of this definition for the water supply work to be a metered water supply work with a data logger.

- (c) if the holder of a water supply work approval is the same as the holder of the access licence under which water is proposed to be taken, then it is not necessary to maintain two separate Logbooks and all the required information can be kept in one Logbook.

Division 2 Access licences

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

79 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 2 of Part 11 of this Plan for the respective category or subcategory of access licence,
 - (b) the taking of water under an aquifer access licence is subject to any local impact rules made under Division 4 of Part 11 of this Plan,
 - (c) 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,
 - (d) 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
 - (e) any other condition required to implement the provisions of this Plan.
- (2) All access licences in these water sources, excluding access licences that nominate only metered water supply works with a data logger, must have mandatory conditions where required to give effect to the following:
- (a) the holder of an access licence must keep a Logbook,
 - (b) the holder of an access licence must record the following in the Logbook:
 - (i) each date and period of time during which water was taken under the access licence,
 - (ii) the volume of water taken on that date,
 - (iii) the water supply work approval number of the water supply work used to take the water on that date,

- (iv) the purpose or purposes for which the water was taken on that date,
 - (v) for domestic and stock access licences, local water utility access licences, unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences, 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 56 (3),
 - (vi) for domestic and stock access licences, local water utility access licences, unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences, 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 56 (2), and
 - (vii) any other information required to be recorded in the Logbook under the rules of this Plan,
- (c) the holder of the access licence must produce the Logbook to the Minister for inspection, when requested,
 - (d) the holder of the access licence must retain the information required to be recorded in the Logbook for 5 years from the date to which that information relates.
- (3) The Minister may require the holder of an access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements from subclause (2).
 - (4) All access licences of the subcategory “Aboriginal cultural” must have a mandatory condition that specifies that water must only be taken under the access licence by Aboriginal persons or Aboriginal communities for personal, domestic or communal purposes, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.
 - (5) An access licence for a development approved under Part 3A for State Significant Infrastructure, Part 4 if the development was for State Significant Development, or Part 5.1 of the *Environmental Planning and Assessment Act 1979* must have mandatory conditions, where required to give effect to:
 - (a) the relevant access rules for the taking of water specified in Division 3 of Part 11 of this Plan, and
 - (b) the rules for the use of water supply works located within restricted distances specified in clauses 39 and 39A.

Division 3 Water supply work approvals

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

80 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) the water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in clause 21 (3) and Division 3 of Part 11 of this Plan,
- (b) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements:
 - (i) the metering equipment must accurately measure and record the flow of all water taken through the water supply work,
 - (ii) the metering equipment must comply with *Australian Technical Specification ATS 4747, Meters for non-urban water supply*, as may be updated or replaced from time to time,
 - (iii) the metering equipment must be operated and maintained in a proper and efficient manner at all times,
 - (iv) the metering equipment must be sited and installed at a place in the pipe, channel or conduit between the water source and the first discharge outlet. There must be no flow of water 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 also direct a landholder or person to install, replace or to properly maintain metering equipment under section 326 of the Act.

- (c) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned, unless otherwise directed by the Minister in writing,
 - (d) the holder of the water supply work approval must notify the Minister in writing immediately upon becoming aware of a breach of any condition of the approval,
 - (e) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned, and
 - (f) any other conditions required to implement the provisions of this Plan.
- (2) Water supply work approvals for water supply works in these water sources, excluding a water supply work that is a metered water supply work with a data logger, must have mandatory conditions where required to give effect to the following:
- (a) the holder of a water supply work approval must keep a Logbook,
 - (b) the holder of a water supply work approval must record the following in the Logbook:
 - (i) each date and period of time during which water was taken using the water supply work,
 - (ii) the volume of water taken on that date,
 - (iii) the access licence number of the access licence under which water was taken on that date, or, if water was taken under some other authority (such as basic landholder rights), the authority under which that water was taken,
 - (iv) the purpose or purposes for which the water was taken on that date,

- (v) details of any cropping carried out using water taken through the water supply work including the type of crop, area cropped and dates of planting and harvesting,
 - (vi) where metering equipment has been installed for use in connection with the water supply work, the meter reading before water is taken,
 - (vii) where metering equipment has not been installed for use in connection with the water supply work, details of all pumping activities for the water supply work including pump running hours, pump power usage or pump fuel usage, pump start and stop times and pump capacity per unit of time, and
 - (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
- (c) the holder of the water supply work approval must produce the Logbook to the Minister for inspection, when requested, and
 - (d) the holder of the water supply work approval must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of a water supply work approval for a metered water supply work with a data logger to keep a Logbook in accordance with any requirements under subclause (2).
 - (4) All water supply work approvals for water supply works in these water sources must contain mandatory conditions to require that the water supply work must not be used to take water unless, before water is taken, the holder of the water supply work approval confirms that the relevant cease to take conditions do not apply. Where the holder is required to keep a Logbook, the holder must record that confirmation and the means of confirmation (such as visual inspection or internet search), in the Logbook.
 - (5) Water supply work approvals for runoff harvesting dams or in-river dams must have a mandatory condition to give effect to clause 37 of this Plan.

80A Water supply works used to take water from the alluvial sediments

- (1) This clause applies to all water supply works that may be used to take water contained within the alluvial sediments in these water sources.
- (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 restricted distances as specified in clause 39A,
 - (b) the approval holder must ensure the water supply work is constructed so as to be:
 - (i) screened in the alluvial sediments in the water source specified in the share component of the access licence that nominates the water supply work, and
 - (ii) sealed off from all other sources of water,
 - (c) the construction of a new water supply work must:
 - (i) comply with the distances restrictions specified in or specified by the Minister in accordance with clause 39,

- (ii) comply with the construction standards for that type of work prescribed in the *Minimum Construction Requirements for Water Bores in Australia*,
 - (iii) be constructed appropriately so as to prevent contamination between aquifers, and
 - (iv) be constructed to prevent the flow of saline water between aquifers as directed by the Minister in writing,
- (d) the approval holder must ensure that if the water supply work is abandoned or replaced, it is decommissioned in compliance with the “minimum requirements for decommissioning bores” prescribed in the *Minimum Construction Requirements for Water Bores in Australia*, unless otherwise directed by the Minister in writing,
- (e) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned,
- (f) 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 Department in a form approved by the Minister, the details of the water supply work,
- (g) if, during the construction of the water supply work, 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 contaminated water from the water supply work and, if specified by the Minister, place an impermeable seal between the casing and the walls of the water supply 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,
- (h) 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,
- (i) the water supply work approval will lapse if the construction of the water supply work is not completed within three years of the issue of the approval, and
- (j) any other conditions required to implement the provisions of this Plan.
- (3) A water supply work approval granted in circumstances where clause 39 (4) applies must have a mandatory condition where required to give effect to clause 39 (4) (c).

[53] Clause 82 Amendments of this Plan

Omit the clause. Insert instead:

- (1) Amendments specified throughout this Plan, and in this Part, are amendments authorised by this Plan.

- (2) Amendments authorised by this Plan are taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.

Note. For example, if Part 1 is amended to add a new management zone, this may require amendment to other parts of this Plan to include rules for that management zone.

- (3) 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 sections 87 (2) (c) and 87AA of the Act.

[54] Clause 87 Other amendments to this Plan

Omit clause 87 (g). Insert instead:

- (g) clauses 39 (11), 39 (14), 39 (15) and 39 (16) in respect to high priority groundwater dependent ecosystems,
- (h) Part 11 with respect to:
 - (i) amending rules in relation to record keeping including amendments in relation to requirements for Logbooks, or
 - (ii) specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works in clauses 80 and 80A, and
- (i) this Plan may be amended to allow for the management of aquifer interference activities.

[55] Schedule 1 Dictionary

Insert in alphabetical order:

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

drawdown means a lowering of the level to which water will rise in cased bores.

Note. Natural drawdown may occur due to seasonal climatic changes. Groundwater pumping may also result in seasonal and long-term drawdown.

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.

Minimum Construction Requirements for Water Bores in Australia means the document published by the National Uniform Drillers Licensing Committee entitled Minimum Construction Requirements for Water Bores in Australia, 2012, ISBN 978-0-646-56917-8, as amended or replaced from time to time.

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

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

[56] Schedule 1

Omit the definition of “*runoff harvesting dam*”. Insert instead:

runoff harvesting dam means a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are defined in the harvestable rights orders made under section 54 of the Act. For the purposes of this Plan, references to runoff harvesting dams as water supply works include any associated pumps or other works which take water from the dam. For the purpose of clarity, this definition includes dams that are also used to store water diverted into the dam from a river or other source of water.

[57] Schedule 3

Omit the schedule. Insert instead:

Schedule 3 Licences under the *Water Act 1912* or *Water Management Act 2000* with access to very low flows

Schedule 3 currently lists *Water Act 1912* entitlements from which *Water Management Act 2000* access licences will be derived upon commencement of this Plan

Water Act Licences (Non Local Water Utilities)

30SL040955

30SL065242

30SL065813

30SL066237

30SL039469

30BL184010

Water Act Licences (Local Water Utilities)

30BL130392

30BL130393

30BL130394

30BL142251

[58] Appendix 2

Omit the appendix. Insert instead:

Appendix 2 Inspection of the Plan Map

Copies of the Plan Map may be inspected at the following offices:

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
10 Valentine Ave
PARRAMATTA NSW 2150

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
Level 3, 49 Victoria St
Grafton, NSW 2460

NSW Office of Water

Department of Trade and Investment, Regional Infrastructure and Services
The Harrington Building
Level 1, 41 Belgrave Street
KEMPSEY NSW 2440

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
AMP Centre
24 Gordon Street

[59] Appendix 3

Insert the following appendix after Appendix 2:

Appendix 3 Office

Any notifications that may be required to be made to the Minister, as specified in this Plan can be addressed to the following office:

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
Locked Bag 10
Grafton, NSW 2460