



Water Sharing Plan for the Central Coast Unregulated 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 Central Coast Unregulated Water Sources 2009*.

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 Central Coast Unregulated Water Sources 2009*. The concurrence of the Minister for the Environment was obtained prior to the making of this Order.

Water Sharing Plan for the Central Coast Unregulated Water Sources Amendment Order 2013

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Water Management Act 2000

1 Name of Order

This Order is the *Water Sharing Plan for the Central Coast Unregulated 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 Central Coast Unregulated Water Sources 2009

[1] Clause 4 Water sources to which this Plan applies

Omit clause 4 (2). Insert instead:

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP005_Version1) Water Sharing Plan for the Central Coast Unregulated Water Sources 2009* (hereafter *the Plan Map*) held by the Department.

Note. The Plan Map is part of this Plan. Copies of the Plan Map for these water sources may be inspected at offices of the Department listed in Appendix 2 and are available on the NSW Legislation website.

[2] Clause 4 (3) (a), Clause 5 and Clause 15 (2)

Omit “registered plan” wherever occurring. Insert instead “Plan Map”.

[3] Clause 6 Amendment of this Part

Omit “registered plan” from the note to clause 6. Insert instead “Plan Map”.

[4] Clause 16

Omit the clause. Insert instead:

16 Flow reference points

- (1) Subject to subclauses (3) and (4), for the purposes of this Plan all flows referred to in clause 17 (1) are measured flows at the flow reference point(s) for each water source or management zone specified in clause 17.
- (2) The Minister may amend this Plan to add or remove flow reference points, including if there are any changes to flow classes under clauses 17 (2), 17 (3), 17 (4) and 17 (5) of this Plan.

Note. The Plan Map for these water sources may be amended as a result of the establishment of, or changes to, flow reference points under this Part.

Note. In the event of any failure of a flow reference point in these water sources, flow classes in the water source may be imposed pursuant to an order made under section 324 of the Act.

- (3) For flow classes that are determined based on flows at more than one flow measuring gauge, on any day that it is not possible to determine the flow at a flow reference point specified in clause 17 (1) due to flow data not being available from a flow measuring gauge, then the flow class applies for the relevant management zone when flows as measured at the remaining functioning gauge specified in clause 17 (1) are equal to the flows specified in clause 17 (1) for that gauge.
- (4) Subject to subclause (3), 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, 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 subclause, 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 Dangar 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 upstream and downstream gauges.

[5] Clause 17 Flow classes for these water sources

Omit clause 17 (1). Insert instead:

(1) This Plan establishes the following flow classes as the basis for sharing of daily flows from these water sources:

(a) for the Wyong River Water Source:

(i) for all access licences, excluding local water utility access licences:

(A) for the first three years of this Plan or until the upgraded works to the infrastructure specified in Schedule 3 are completed, whichever is the sooner, the Very Low Flow Class is when there is no visible flow at gauging stations 211009 or 211010, hereafter the Very Low Flow Class is when the combined flows at gauging stations 211009 and 211010 are equal to or less than 4 megalitres per day (hereafter *ML/day*),

Note. 4 ML/day corresponds to the estimated 95th percentile of all days with flow.

(B) subject to subclause (1) (a) (i) (C), for the first three years of this Plan, A Class is when there is a visible flow at gauging stations 211009 and 211010, for year 4 and 5 of this Plan, A Class is when the combined flows at gauging stations 211009 and 211010 are greater than 4 ML/day, thereafter A Class is when the combined flows at gauging stations 211009 and 211010 are greater than 4 ML/day and less than 13.5 ML/day,

Note. 13.5 ML/day corresponds to the estimated 80th percentile of all days with flow.

Note. The top of the Very Low Flow Class may be amended under subclause (7) to a level no less than the 98th percentile (which corresponds to 2 ML/day) and no more than the 95th percentile (which corresponds to 4 ML/day).

(C) if the upgraded works are completed, A Class is when the combined flows at gauging stations 211009 and 211010 are greater than 4 ML/day and less than 13.5 ML/day,

(D) for the first five years of this Plan, or until the upgrade works to the infrastructure specified in Schedule 3 are completed, whichever occurs sooner, no B Class is established, thereafter B Class is when the combined flows at gauging stations 211009 and 211010 are equal to or greater than 13.5 ML/day and less than 26 ML/day, and

Note. 26 ML/day corresponds to the estimated 50th percentile of all days with flow.

(E) for the first five years of this Plan, or until the upgrade works to the infrastructure specified in Schedule 3 are completed, whichever is the sooner, no C Class is established, thereafter C Class is when the combined flows at gauging stations 211009 and 211010 are equal to or greater than 26 ML/day,

Note. When temporary water restrictions under a drought management plan are implemented by the local water utilities the Department in consultation with Gosford/Wyong Councils' Water Authority will assess water availability in the Wyong River Water Source and the level of risk to the ability of the local water utility to supply water. This will inform whether action is required to declare a severe water shortage and relax access rules for the local water utility and other access licences accordingly.

(ii) for all local water utility access licences:

(A) the Very Low Flow Class is when the combined flows at gauging stations 211009 and 211010 are equal to or less than 4 ML/day,

Note. 4 ML/day corresponds to the estimated 95th percentile of all days with flow.

Note. Whilst there is a Very Low Flow Class for local water utility access licences from the commencement of this Plan, clause 19 (3) (d) permits the taking of water by local water utilities when flows are in the Very Low Flow Class for the first three years of this Plan, or until the upgraded fishway for the Wyong River Weir and the new Wyong River pump station are completed, whichever is the sooner, for the purposes of town water supply only. However, during this period the taking of water under local water utility access licences is limited in accordance with clause 19 (3) (g).

(B) A Class is when the combined flows at gauging stations 211009 and 211010 are greater than 4 ML/day and less than 13.5 ML/day,

Note. 13.5 ML/day corresponds to the estimated 80th percentile of all days with flow.

Note. It is intended that the Wyong Weir will be upgraded during the life of this Plan. This will include an improved fishway and possible amendment to the control point proposed to replace existing flow reference points for access rules. The flow class rules developed for this Plan are based on fish passage requirements associated with the improved fishway. Once the fishway is upgraded, the new pump station commissioned and a new gauging station is established at the weir, local water utility extractions will be managed such that flows through the fishway will be within the operating range of the fishway. However, extreme river flow conditions such as flows less than 2 ML/day and very high flows may be outside the operating range of the proposed fishway.

Note. These flow classes may be amended under clause 17(4) based on monitoring and investigations associated with the Wyong River Environmental Flows Study. The top of the Very Low Flow Class in the Wyong River Water Source may be amended to a level no less than the 95th percentile (which corresponds to 4 ML/day) and the bottom of B Class is no more than the 70th percentile (which corresponds to 22 ML/day).

(C) B Class is when the combined flows at gauging stations 211009 and 211010 are equal to or greater than 13.5 ML/day and less than 26 ML/day, and

Note. 26 ML/day corresponds to the estimated 50th percentile of all days with flow.

(D) C Class is when the combined flows at gauging stations 211009 and 211010 are equal to or greater than 26 ML/day,

Note. When temporary water restrictions under a drought management plan are implemented by the local water utilities, the Department in consultation with Gosford/Wyong Councils' Water Authority will assess water availability in the Wyong River Water Source and the level of risk to the ability of the local water utility to supply water. This will inform whether action is required to declare a severe water shortage and relax access rules for the local water utility and other access licences accordingly.

- (b) for the Tuggerah Lakes Water Source, no flow classes are established by this Plan,
- (c) for the Brisbane Water Water Source, no flow classes are established by this Plan,
- (d) for the Mooney Mooney Creek Water Source, no flow classes are established by this Plan, and

Note. At year six of this Plan flow classes may be established based on further investigations as set out under clause 17 (2) of this Plan.

- (e) for the Mangrove Creek Water Source, no flow classes are established by this Plan.

Note. At year six of this Plan flow classes may be established based on further investigations as set out under subclause (2).

[6] Clause 17 (2)

Omit the subclause and the note. Insert instead:

- (2) The Minister may amend subclauses 1 (d) and 1 (e), after year five of this Plan, to establish flow classes in the Mooney Mooney Creek Water Source and Mangrove Creek Water Source, based on further investigations to determine appropriate surface water levels and flow reference points to allow rule development.

[7] Clause 17 (3)

Insert “(i)” after “(1) (a)”.

[8] Clause 17 (4)

Omit the subclause. Insert instead:

- (4) The Minister may amend subclause (1) (a) (ii), to vary or establish a new or additional flow class or flow classes such that the top of the Very Low Flow Class is greater or equal to the 95th percentile flow and the bottom of B Class is less than or equal to the 70th percentile flow based on monitoring and investigations associated with the Wyong River Environmental Flows Study.

Note. The 95th percentile (which corresponds to around 4 ML/day) was chosen as the lower limit of the bounds of change, as this is the State Policy position in regard to environmental flows, and is within the levels at which the upgraded fishway on the Wyong River Weir would operate most effectively (2-5 ML/day). The 70th percentile (which corresponds to 22 ML/day) was chosen as the upper limit of the bounds of change for B Class as this would provide greater protection to low flows and increase access to high flows for the local water utility.

[9] Clause 17 (5)

Insert “a” after “establish”.

[10] Clause 17 (6)

Insert “the flow reference points specified in” after “may amend”.

[11] Clause 17 (7) and (8)

Omit clause 17 (7) and the note to the subclause. Insert instead:

- (7) Following an amendment under subclause (6), the flow classes specified in subclause (1) (a) (i) may be amended such that the top of the Very Low Flow Class is equivalent to a flow of no less than 2 ML/day and no more than 4 ML/day, where evidence of economic hardship has been provided to the Minister by access licence holders in the water source

based on the implementation of the flow class rules as established at the commencement of this Plan.

Note. 2 ML/day equates to the 98th percentile flow and 4 ML/day equates to the 95th percentile flow.

- (8) In amending any provisions as specified in subclauses (2)–(7), the net effect should not reduce the yield of the local water utilities water supply below 47,300 megalitres per year (hereafter *ML/year*), including any water sourced from Hunter Water Corporation.

Note. 47,300 ML/year refers to the 2050 demand projection for the Central Coast.

[12] Clause 19 Planned environmental water

Omit subclause (3). Insert instead:

- (3) The planned environmental water established in subclause (1) (b) is maintained as follows:
- (a) subject to paragraph (d), 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 relevant Very Low Flow Class that has commenced, when flows are in the relevant Very Low Flow Class,
 - (b) subject to paragraph (d), 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 17), or
 - (ii) the access rules 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 (d), in the Wyong River Water Source, Tuggerah Lakes Water Source and Brisbane Water Source, water must not be taken under an access licence:
 - (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 or outflow to or from that pool,
 - (d) paragraphs (a)–(c) do not apply to the following:
 - (i) the taking of water under an access licence to which Schedule 2 applies which replaces a *Water Act 1912* entitlement that allowed water to be taken in the Very Low Flow Class, for a purpose listed below, provided that the water taken does not exceed 20 kilolitres per day per access licence, or such lower amount specified on the access licence in accordance with paragraph (e):
 - (A) fruit washing,
 - (B) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (C) poultry washing and misting, or

- (D) cleaning of enclosures used for intensive animal production for the purposes of hygiene,
 - (ii) the taking of water for domestic consumption under a domestic and stock access licence, a domestic and stock (subcategory “domestic”) access licence that existed at the commencement of this Plan, for the first three years of this Plan,
 - (iii) the taking of water using a runoff harvesting dam or from an in-river dam pool, and
 - (iv) the taking of water under a local water utility access licence to which Schedule 2 applies, for the first three years of this Plan or the upgraded fishway for the Wyong River Weir and new Wyong River Pump Station are completed, whichever is sooner, for the purposes of town water supply only,
- (e) the Minister may, in relation to an access licence to which paragraph (d) (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 (d) (i),
- (f) in the Wyong River Water Source the holders of access licences must take water in accordance with the rules specified in clause 47 of this Plan of A Class, B Class and C Class,
- (g) until year three of this Plan, or the upgraded fishway for the Wyong River Weir and new Wyong River pump station are completed, whichever is the sooner, in the Wyong River Water Source, the following access conditions shall apply to local water utility access licences for any two weeks in both October and December:
- (i) a cease to pump equal to a visible flow over the Wyong Weir Flow Reference Point, and
 - (ii) pumping may commence 24 hours after the spilling of the Wyong River Weir,
- (h) 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,
- (i) the flows and circumstances to be specified on the water supply work approval for the in-river dam referred to in paragraph (h) 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,
- (j) water must not be taken under one of the following access licences with a share component that specifies a water source where a B Class has not been established under clause 17 of this Plan, unless flows exceed a flow class or level determined by the Minister:
- (i) a new local water utility access licence granted after the commencement of this Plan pursuant to section 66 (3) or (4) of the Act,
 - (ii) a new major utility (subcategory “Urban water”) access licence granted after the commencement of this Plan that has not replaced a local water utility access licence, and

- (k) water must not be taken under one of the following access licences with a share component that specifies a water source where a B Class has been established under clause 17, when flows are in the Very Low Flow Class or A Class:
- (i) a new local water utility access licence granted after the commencement of this Plan pursuant to section 66 (3) or (4) of the Act,
 - (ii) a new major utility (subcategory “Urban water”) access licence granted after the commencement of this Plan that has not replaced a local water utility access licence, or
 - (iii) a new access licence with a zero share component granted after the commencement of this Plan.

[13] Clause 19 (4)

Omit the subclause and the note to the subclause.

Insert instead:

- (4) The Minister may amend subclause (3) during the term of this Plan to establish a rule that prohibits pumping until a specified flow has occurred for a specified number of hours in the Wyong River Water Source, the Mangrove Creek Water Source or the Mooney Mooney Creek Water Source.

[14] Clause 19 (6)–(9)

Omit subclause (6). Insert instead:

- (6) The Minister may amend subclause (3) following an amendment under clause 17 (6).
- (7) The Minister may establish and/or amend the Very Low Flow Class access conditions specified in subclause (3) for local water utility access licences or access licences of the subcategory “Town water supply” specified in this Part.
- (8) In amending any provisions as specified in subclauses (4)–(7), the net effect should not reduce the yield of the local water utilities water supply below 47,300 ML/year, including any water sourced from Hunter Water Corporation.

Note. 47,300 ML/year refers to the 2050 demand projection for the Central Coast.

- (9) The Minister may amend subclause (3) after year five of this Plan, to specify that an access licence in the Mangrove Creek Water Source and Mooney Mooney Creek Water Source, excluding access licences to which Schedule 2 applies, must not be used to take water if there is no visible flow in the water source at the location at which water is proposed to be taken or where water is being taken from a pool, if there is no visible inflow and outflow to and from that pool.

[15] Clause 20 Adaptive environmental water

Omit the clause.

[16] Clause 28 Share component of local water utility access licences.

Omit the note to clause 28 (a). Insert instead:

Note. The total share component for local water utility access licences in the Wyong River Water Source may be amended under clause 31 based on the review of the study and ongoing monitoring and investigations referred to in clauses 74 and 75 of this Plan.

[17] Clause 28 (e), Note.

Insert “under clause 31” after “may be amended”.

[18] Clause 32 Rules for granting access licences

Omit the note to clause 32 (7). Insert instead:

Note. Any new access licence granted in these water sources may be subject to an access rule as specified in clause 19 (3).

[19] Clause 35 Long-term average annual extraction limit

Omit “excluding entitlements” from clause 35 (2) (b) (i). Insert instead “excluding local water utility or any major utility access licences”.

[20] Clause 37 Assessment of the long-term average annual extraction limit

Omit clause 37 (3). Insert instead:

- (3) Commencing in the fourth water year in which this Plan has effect, the assessment referred to in subclause (2) must compare the long-term average annual extraction limits established in clause 35 (2) for the respective extraction management unit against the annual extraction averaged over the preceding three water years for that extraction management unit.

[21] Clauses 35 and 37

Omit “future” wherever occurring.

[22] Clause 38 Compliance with the long-term average annual extraction limit

Omit clause 38 (1) and (2). Insert instead:

- (1) Commencing in the fourth water year in which this Plan has effect, if, in the Minister’s opinion, the assessment under clause 37 demonstrates that annual extractions in the respective extraction management unit averaged over the preceding three water years have exceeded the long-term average annual extraction limit established under clause 35 (2) for that extraction management unit by 5% or more, then the available water determinations for unregulated river access licences in that extraction management unit are to be reduced by 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.
- (2) Commencing in the fourth water year in which this Plan has effect, if, in the Minister’s opinion, the assessment under clause 37 demonstrates that annual extractions in the respective extraction management unit averaged over the preceding three water years are less than 95% of the long-term average annual extraction limit established under clause 35 (2) for that extraction management unit by 5% or more, then the available water determinations for unregulated river access licences in that extraction management unit are to be increased by 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.

[23] Clause 38 (6)

Omit the subclause. Insert instead:

- (6) The average annual volume of water taken under all local water utility or major utility access licence held by Gosford City Council Water Supply Authority and Wyong Council Water Supply Authority in an extraction management unit, in any 10 consecutive water years may not exceed a volume equal to the respective long-term average annual extraction limit specified in clauses 35 (3) and 35 (4) of this Plan.

[24] Clauses 45 Individual access licence account management rules

Omit clause 45 (3) and (4). Insert instead:

- (3) Notwithstanding subclause (4), the maximum volume that may be taken under a domestic and stock access licence and unregulated river access licence in these water sources in the first 3 water years of this Plan may not exceed a volume equal to:
 - (a) 3 times the access licence share component (for access licences with share components expressed as megalitres per year), or 3 megalitres per unit share of access licence share component (for access licences with share components expressed as a number of unit shares),
 - (b) plus any water allocations assigned from another access licence under section 71T of the Act, in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act, in those years, and
 - (d) minus any water allocations assigned to another access licence under section 71T of the Act, in those years.
- (4) 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 or an unregulated river 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 subclause (5),
 - (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.

[25] Clause 47 Total daily extraction limit

Omit clause 47 (8). Insert instead:

- (8) The Minister may amend subclauses (3) and (4) if the flow reference point for the Wyong River Water Source specified in clause 17 (1) is amended under clause 17 (6) to specify the Wyong River Weir, provided that any amendment will not reduce the percentages specified in subclauses (3) and (4) by more than 7.6%.

[26] Clause 47 (9)

Omit “if”.

[27] Clause 47 (11)

Omit “this Plan to”.

[28] Clause 55 Access to the Very Low Flow Class in these Water Sources

Omit “64”. Insert instead “19”.

[29] Clause 57 Rules relating to constraints within these water sources

Omit clause 57 (2) (c). Insert instead:

- (c) the access licence dealing involves an assignment of access rights under section 71Q of the Act or an allocation assignment under section 71T of the Act from an access licence not located in one of the following management zones to an access licence located in one of the following management zones:
 - (i) Brisbane Water Plateau Management Zone,
 - (ii) Mooney Mooney Plateau Management Zone,
 - (iii) Mangrove Plateau Management Zone, and
 - (iv) Wyong Plateau Management Zone,

[30] Clause 57 (2) (e)

Omit the paragraph. Insert instead:

- (e) the access licence dealing involves an access licence, that does not currently nominate a water supply work located in one of the following management zones being amended under section 71W of the Act to nominate a water supply work located in one of the following management zones:
 - (i) Brisbane Water Plateau Management Zone,
 - (ii) Mooney Mooney Plateau Management Zone,
 - (iii) Mangrove Plateau Management Zone, and
 - (iv) Wyong Plateau Management Zone.

[31] Clause 61 Rules for water allocation assignments between water sources

Omit clause 61 (2) (i) and (ii). Insert instead:

- (a) a change of water source between the Tuggerah Lakes and Gosford Extraction Management Units, or
- (b) into one of the following management zones:
 - (i) Brisbane Water Plateau Management Zone,
 - (ii) Mooney Mooney Plateau Management Zone,
 - (iii) Mangrove Plateau Management Zone, and
 - (iv) Wyong Plateau Management Zone.

[32] Part 12

Omit the Part. Insert instead:

Part 12 Mandatory conditions

Division 1 General

62 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 NSW Office of Water Licensing Enquiries Information Centre,

Note. The email address for the NSW Office of Water 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 the 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 a metered water supply work with a data logger does not include all water supply works that are metered or 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.

63 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 10 of this Plan for the respective category or subcategory of access licence,
 - (b) 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) the holder of the access licence must notify the Minister, in writing, immediately upon becoming aware of a breach of any condition of the access licence, and
 - (d) any other condition required to implement the provisions of this Plan.
- (2) Access licences in these water sources, excluding access licences that nominate only 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 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 or unregulated river 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 45 (3),
 - (vi) for domestic and stock access licences or unregulated river 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 45 (4), and
 - (vii) any other information required to be recorded in the Logbook under the rules of this Plan,
 - (c) the holder of an access licence must produce the Logbook to the Minister for inspection, when requested,
 - (d) the holder of an access licence must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) All local water utility access licences and any new major utility access licence that replaces a local water utility access licence in these water sources must have a mandatory condition to give effect to clauses 38 (6)–(10).
- (4) When directed by the Minister by notice in writing, the holder of an access licence that nominates only a metered water supply work with a data logger must keep a

Logbook in accordance with any requirements from subclause (2) that are specified in the notice.

- (5) 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.
- (6) An access licence for a development approved under Part 3A, 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 the relevant access rules for the taking of water specified in Part 4 and Division 3 of Part 10 of this Plan.

Division 3 Water supply work approvals

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

64 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 Part 4 and Division 3 of Part 10 of this Plan,
 - (b) that 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 into 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 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) 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 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 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,
 - (c) the holder of a water supply work approval must produce the Logbook to the Minister for inspection, when requested, and
 - (d) the holder of a 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 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 and in-river dams must have a mandatory condition where required to give effect to clause 70 and 71 of this Plan.
- (6) A water supply work approval which authorises the construction or use of a water supply work which is nominated by a local water utility or major utility access licence in these water sources, including all subcategories of major utility access licences, must have mandatory conditions where required to give effect to the relevant release rules for local water utility and major utility storages specified in Part 14 of this Plan.

[33] Clause 70

Omit the clause. Insert instead:

70 Runoff Harvesting 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.

Note. The taking of water from a runoff harvesting dam requires an access licence and a water supply works approval, except to the extent that the runoff harvesting dam is an owner or an occupier's harvestable right entitlement under section 53 of the Act, in which case it will not require an access licence or water supply work approval.

Note. Following the assignment of water allocations from a water allocation account of an access licence that nominates an approval for a runoff harvesting dam, the Minister may impose conditions requiring that runoff harvesting dam to by-pass flows.

[34] Clause 73 Amendment of this Plan

Omit clause 73 (2). Insert instead:

- (2) Amendments specified throughout this Plan, and in this Part, are amendments authorised by this Plan.
- (3) 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.

- (4) 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.

[35] Clause 74 Review of ongoing monitoring and investigations outcomes

Insert “(1)” after “75” in clause 74 (1).

[36] Clause 75 Amendment of flow classes, planned environmental water, share components and daily extraction limit provisions

Insert “ongoing” after “verified outcomes of any” in clause 75 (1).

[37] Clause 75 (1)

Insert “or any other new study” after “Wyang River Environmental Flows Study”.

[38] Clause 75 (1), Note

Omit “Mandatory conditions will be updated to reflect any change in access as a result of monitoring and investigations.”.

[39] Clause 75 (3)

Omit “subclauses (1) (a) to (1) (f)”. Insert instead “subclause (1)”.

[40] Clause 78 Amendments in relation to Schedule 2 (Very Low Flow) and mandatory conditions

Omit clause 78 (1) (a). Insert instead:

- (a) add a *Water Act 1912* entitlement or access licence to Schedule 2, but only if the taking of water under that entitlement was for a purpose referred to in clause 19 (3) (d) (i) and the purpose existed prior to 1 July 2008, or

[41] Clause 78 (1) (b)

Omit “former”.

[42] Clause 78 (1) (b) (i)

Omit “extracted”. Insert instead “taken”.

[43] Clause 78 (1) (d) and (e)

Insert after subclause (1) (c):

- (d) remove a *Water Act 1912* entitlement or access licence from Schedule 2 that has been converted to a local water utility access licence,
- (e) add an *Water Act 1912* entitlement or access licence to Schedule 2, 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.

[44] Clause 78 (2)

Omit “the mandatory conditions”. Insert instead “clause 19 (3)”.

[45] Clause 78 (4) and (5)

Insert at the end of subclause (3):

- (4) For the purposes of subclauses (1) and (2), **major augmentation** includes anything which enhances or increases the local water utility's capacity to take water to meet town water supply requirements as a result of demand for water exceeding the sustainable yield of the utility's existing infrastructure, for example, a larger pump, a larger storage facility, a larger pipe, or a secondary or additional water source.
- (5) The mandatory conditions in Part 11 can be amended in relation to record keeping including amendments in relation to the requirements for Logbooks.

[46] 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.

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 works 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 in this Plan.

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

[47] Schedule 1

Omit the definition of runoff harvesting dam. Insert instead:

runoff harvesting dam means a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are defined in harvestable rights orders order 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.

[48] Schedule 1

Omit the definition of registered plan for these water sources.

[49] Schedule 2

Omit the schedule. Insert instead:

Schedule 2 Licences with access to very low flows

Schedule 2 currently lists former *Water Act 1912* entitlements from which access licences will be derived upon commencement of the Water Sharing Plan.

Brisbane Water Water Source

20SL061720			
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Mooney Mooney Creek Water Source

20SL050381	20SL038117	20SL023693	20SL023693
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Mangrove Creek Water Source

20SL019457	20SL025461	20SL032168	20SL040385
20SL056675	20SL056720	20SL056057	20SL056467
20SL040230	20SL045333	20SL039289	20SL051226
20SL045333	20SL051226	20SL039289	20SL028527

Wyong River Water Source

20SL033407	20SL044633	20SL060746	20SL060776
20SL039830	20SL019691	20SL033407	20SL019691
20SL061688	20SL061758	20SL039830	

Tuggerah Lakes Water Source

20SL060789	20SL061639		
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[50] Schedule 3 Local water utilities water supply infrastructure

Omit "clause 47". Insert instead "clauses 17, 47 and 78".

[51] 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
Level 3, 107–109 Mann Street
GOSFORD NSW 2250

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
Level 3, 26 Honeysuckle Drive
DANGAR NSW 2309

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

[52] Appendix 3

Insert 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
PO Box 2213
DANGAR NSW 2309