



Water Sharing Plan for the Coffs Harbour 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 Coffs Harbour Area Unregulated and Alluvial 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 Coffs Harbour Area Unregulated and Alluvial Water Sources 2009*. 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 Coffs Harbour 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 Coffs Harbour Area Unregulated and Alluvial Water Sources 2009

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

Omit “the” after “and shall be known as” in clause (4) (1).

[2] Clause 4 (2)

Omit the subclause. Insert instead:

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP004_Version 1), Water Sharing Plan for the Coffs Harbour Area Unregulated and Alluvial 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.

[3] Clause 4 (3) and Clause 5, Note to Clause 6 and Clause 15 (2)

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

[4] Clause 4 (3) (a)

Omit “and” after “these water sources,”.

[5] Clause 16

Omit the clause. Insert instead:

16 Flow reference points

- (1) Subject to subclause (2), 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) 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 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 upstream and downstream gauges.

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.

[6] Clause 17 Flow classes for these water sources

Omit the note to clause 17 (1). Insert instead:

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Note. The following flow classes apply to all access licences taking water from surface water specified for each water source or management zone from the commencement date of this Plan, excluding those access licences listed under clause 19 (3) (d) and access licences that nominate a runoff harvesting dam. They will also apply to all existing aquifer access licence holders taking water from alluvial aquifers within 40 metres of the high bank of the river from year six of this Plan. For those aquifer access licences outside the 40 metres, flow classes in clause 17 (1) will not apply except where provided for under clause 63 of this Plan.

[7] Clause 17 (1) (g)

Omit the paragraph. Insert instead:

(g) for the Dirty Creek Water Source, no flow classes are established by this Plan,

Note. Flow classes may be established for the Dirty Creek Water Source following the grant of an access licence in the water source under Part 8 of this Plan in accordance with subclause (5).

[8] Clause 17 (4)

Omit the subclause. Insert instead:

(4) The Minister may amend this Plan to amend subclause (1) (d) or (1) (f) to vary or establish new or additional flow class or flow classes for the Bonville Creek Water Source or the Corindi River Water Source following the conversion of an unregulated river access licence to an unregulated river (high flow) access licence under clause 67 (2) of this Plan in the respective water source, such that the bottom of B Class is greater or equal to the 50th percentile daily flow.

Note. The percentiles refer to lowest flow month at the gauge and include all days of record.

[9] Clause 17 (5)

Insert after clause 17 (4):

(5) The Minister may amend this Plan to establish new flow classes and flow reference points for the Dirty Creek Water Source following the grant of an access licence in the Dirty Creek Water Source under Part 8 of this Plan.

[10] Clause 19 Planned environmental water

Omit clause 19 (3). Insert instead:

(3) Subject to subclause (6), 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 Very Low Flow Class that has commenced, when flows in that water source or management zone are in the 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 (1)), 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), 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) paragraphs (a)–(c) do not apply to the following:
- (i) the taking of water under an access licence to which Schedule 2 applies, for any of the purposes 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 (e):
 - (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 for domestic consumption only under a domestic and stock access licence or a domestic and stock (subcategory “domestic”) access licence that existed at the commencement of this Plan, for the first three years of this Plan,

Note. Domestic consumption is defined in section 52 of the Act.
 - (iii) the taking of water using a runoff harvesting dam or from an in-river dam pool,
 - (iv) 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 63, and
 - (v) the taking of water for the purpose of town water supply only under a local water utility access licence to which Schedule 2 applies, until such time as the Minister is satisfied that major augmentation of the access licence holder’s water supply system has occurred,
- (e) the Minister may reduce the maximum daily volume limit imposed by the rule under paragraph (d) (i) if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose referred to in that subclause,
- (f) the access rules specified in clauses 40A and 63 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,
- (g) water must not be taken under an unregulated river (high flow) access licence when flows are in the Very Low Flow Class or A Class,
- (h) water must not be taken under a new local water utility access licence granted pursuant to section 66 (3) or (4) of the Act 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) 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, or
 - (ii) a new access licence with a zero share component granted after the commencement of this Plan.
- (j) 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,
- (k) the flows and circumstances to be specified on the water supply work approval for the in-river dam referred to in paragraph (j) 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.

Note. These rules protect the water for the environment by limiting both water extracted over the long-term and the taking of water, in accordance with the relevant objectives of this Plan.

Note. This Plan recognises that the environmental water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social, customary, economic, cultural and recreational benefits, and contributes to improved water quality.”

[11] Clause 19 (6)

Insert after clause 19 (5):

- (6) 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.

[12] Clause 20 Adaptive environmental water

Omit the clause.

[13] Clause 30 Share component of unregulated river (high flow) access licences

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

[14] Clause 33 Rules for granting access licences

Omit the note to clause 33 (4). 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).

[15] Clause 35

Omit this clause. Insert instead:

35 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 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 that 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 that nominates an approval for a runoff harvesting dam, the Minister may impose conditions requiring that runoff harvesting dam to by-pass flows.

[16] Clause 37 Rules for granting or amending approvals for water supply works used to take water from the alluvial sediments in these water sources

Omit "draw down" in the note to clause 37. Insert instead "drawdown".

[17] Clause 38 Rules for granting or amendment water supply work approvals

Omit clause 38 (1). Insert instead:

- (1) A water supply work approval must not be granted under section 95 of the Act or amended under section 107 of the Act, where a water supply work to be constructed or used to take water from the alluvial sediments in these water sources is 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 for basic landholder rights only,
 - (c) 100 metres from the property boundary,
 - (d) 500 metres from a water supply work being constructed or used to take water from alluvial sediments in these water sources by a local water utility or a major utility, or
 - (e) 400 metres of a Departmental observation or monitoring bore.

[18] Clause 38 (3)

Omit clause 38 (3). Insert instead:

- (3) The distance restrictions specified in subclause (1) do not apply where:

[19] Clause 38 (3) (c), Note

Omit the note to the paragraph.

[20] Clause 38 (4)

Omit “or” from before “if a temporary water restriction order”.

[21] Clause 38 (4)

Omit “distance restriction in”. Insert instead “distance restrictions”.

[22] Clause 39 Rules for granting or amending water supply works approvals near contamination sources

Omit clause 39 (1). Insert instead:

- (1) A water supply work approval must not be granted under section 95 of the Act or amended under section 107 of the Act, where a water supply work to be constructed or used to take water from the alluvial sediments in these water sources is located within:
 - (a) 100 metres of a contamination source as listed in Schedule 3, unless the applicant can demonstrate to the Minister’s satisfaction, that:
 - (i) a lesser distance will result in no more than minimal harm to the water source, and
 - (ii) the taking of water will not impact on the environment or cause a threat to public health as confirmed by the Minister for Health, or
 - (b) a greater distance than in paragraph (a), as determined by the Minister, to ensure that no more than minimal harm will occur to the water source, and that extraction will not impact on the environment or cause a threat to public health as confirmed by the Minister for Health.

[23] Clause 40 Rules for granting or amending water supply works approvals near sensitive environmental areas

Omit clause 40 (1). Insert instead:

- (1) A water supply work approval must not be granted under section 95 of the Act or amended under section 107 of the Act, where the water supply work to be constructed or used to take water from the alluvial sediments in these water sources is located within:
 - (a) 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 4, for basic landholders rights only, or
 - (b) 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 4, for water supply works nominated by an access licence, or
 - (c) 500 metres of a high priority karst environment groundwater dependent ecosystem, listed in and shown on the maps in Schedule 4, or
 - (d) 40 metres of the top of the high bank of any third order or above stream, or lagoon, or
 - (e) 40 metres of any first and second order stream, unless the water supply work to be 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 water supply work commences deeper than 30 metres.

Note. Subclause (1) will not apply to current authorised extraction from an existing water supply work being used to take water from the alluvial sediments in these water sources at current or equal share component.

[24] Clause 40 (3)

Omit clause 40 (3). Insert instead:

- (3) The distance restrictions specified in subclauses (1) (a) and (1) (b) do not apply where:

[25] Clause 40 (4)

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

[26] Clause 40A

Insert after clause 40:

40A 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 clauses 38–40, 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 clauses 38–40, 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 38 (2) (a), (c), and (3), 39 (2) and (3) (a) and 40 (2), (3) and (4), 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 clauses 38–40 pursuant to clauses 38 (3), 39 (2), 40 (3) and (4).
- (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 38 (3), 39 (2), 40 (3) and (4).

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.

[27] Clause 45 Assessment of the long-term average annual extraction limit

Omit “third” in clause 45 (1). Insert instead “fourth”.

[28] Clause 45 (3)

Omit the subclause. Insert instead:

- (3) 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 43 for the respective extraction management unit against the annual extraction averaged over the preceding three water years for that extraction management unit.

[29] Clause 46 (1)–(3)

Omit the subclauses. 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 45 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 43 for that extraction management unit by 5% or more, then the available water determinations for unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences in that extraction management unit are to be reduced 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 45 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 43 for that extraction management unit by 5% or more, then the available water determinations for unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences in that extraction management unit are to be 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.
- (3) Any reduction or increase to the available water determination made under Division 2 of this Part for unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences within an extraction management unit shall be the same.

[30] Clause 54 (3) and (4)

Omit the subclauses. Insert instead:

- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, the 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 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.
- (4) For the period of the first three water years in which this Plan has effect, the 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 in these water sources 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.

[31] Clause 62 Access to the Very Low Flow Class in these water sources

Omit “72” in clause 62. Insert instead “19 (3)”.

[32] Clause 63 Access licences which nominate a water supply work which may be used to take water from the alluvial sediments in these water sources

Omit subclauses (1) to (4). Insert instead:

- (1) Except for an aquifer access licence referred to in subclause (2), all aquifer access licences in these water sources which nominate a water supply work which may be used to take water from the alluvial sediments in these water sources, which 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 as unregulated river access licences for the corresponding water source or management zone specified in clause 19 of this Plan.

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- (2) Any aquifer access licence arising from a dealing involving the conversion of an unregulated river access licence to an aquifer access licence, under clause 67 of this Plan, will be subject to the same access rules as unregulated river access licences for the corresponding water source or management zone specified in clause 19 of this Plan.
- (3) 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, which is at or less than 40 metres from the top of the high bank of a river, will be subject to the same access rules as unregulated river access licences for the corresponding water source or management zone specified in clause 19 of this Plan.
- (4) An access rule specified in clause 19 for unregulated river access licences that requires a visible flow at the pump site will 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) to (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*.

[33] Clause 65 Rules relating to constraints within these water sources

Omit clause 65 (2) (b). Insert instead:

- (b) the 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 aquifer access licence that nominates a water supply work which may be used to take water from the alluvial sediments in these water source, which is located more than 40 metres from the top of the bank of a river to an access licence which nominates a water supply work which may be used to take water from the alluvial sediments in these water source, which is located within 40 metres from the top of the bank of a river,

[34] Clause 66 Rules for change of water source

Omit clause 66 (2). Insert instead:

- (2) Dealings under section 71R and 71W of the Act to change the water source to which an access licence applies are prohibited in these water sources if the dealing involves a change of water source from one extraction management unit to another extraction management unit.

[35] Clause 66 (6)

Omit the subclause.

[36] Clause 67 (2) (b)

Omit “high flow”. Insert instead “(high flow)”.

[37] Clause 67 (6) (b), Note

Omit “(flows greater than the 50th percentile flow)”. Insert instead “(e.g. flows greater than the 50th percentile flow)”.

[38] Clause 69 (3) (c)

Omit “and.”. Insert instead “and”.

[39] Part 13

Omit the part. Insert instead:

Part 13 Mandatory conditions

Division 1 General

70 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 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.

71 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) 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) All 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, 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 54 (4),
 - (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 54 (3), 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, and
 - (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) 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 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 Part 4 of this Plan, Division 3 and Division 4 of Part 11 of this Plan, and
 - (b) to give effect to the rules for the use of water supply works located within restricted distances specified in clause 40A.

Division 3 Water supply work approvals

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

72 General

- (1) All 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 of this Plan, Division 3 and Division 4 of Part 11 of this Plan, and
 - (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 the *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 by the Minister by notice in writing,
- 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) 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,
 - (e) 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, 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 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 and in-river dams must have a mandatory condition where required to give effect to clause 35.

73 Water supply works used to take water from the alluvial sediments in these water sources

- (1) This clause applies to all water supply work approvals for 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 the distance restrictions as specified in clause 40A,
 - (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 other sources of water,
 - (c) the construction of a new water supply work must:
 - (i) comply with the restricted distances specified in or specified by the Minister in accordance with clauses 38 to 40,
 - (ii) comply with the construction standards for that type of bore in the *Minimum Construction Requirements for Water Bores in Australia*, and
 - (iii) to 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 water supply work approval if the water supply 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, placing an impermeable seal between the casing(s) 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) that the water supply work approval lapses if the construction of the water supply work is not completed within three years of the issue of the water supply work 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 38 (3) applies, must have a mandatory condition where required to give effect to clause 38 (3).

[40] Clause 80 Amendment of this Plan

Omit clause 80 (1) and (2). 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.

[41] Clause 84 Amendments in relation to Schedule 2 (Very Low Flow)

Omit clause 84 (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

[42] Clause 84 (b)

Omit “former”.

[43] Clause 84 (b) (i)

Omit “extracted”. Insert instead “taken”.

[44] Clause 84 (d)–(g)

Insert after clause 84 (c):

- (d) remove a *Water Act 1912* entitlement from Schedule 2 that has been converted to a local water utility access licence,
- (e) add a local water utility access licence to Schedule 2, provided 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,
- (f) remove a local water utility access licence or former *Water Act 1912* entitlement from Schedule 2 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, and
- (g) for the purposes of paragraphs (e) and (f), 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.

[45] Clause 85 and 86

Insert after clause 84:

85 Amendments in relation to the mandatory conditions

Part 13 may be amended to do any of the following:

- (a) amend the rules in relation to record keeping including amendments in relation to requirements for Logbooks, or
- (b) amend clauses 72 and 73 to specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works.

86 Other amendments to this Plan

This Plan may be amended to allow for the management of aquifer interference activities.

[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.

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.

[47] Schedule 1

Omit the definition of drawdown. Insert instead:

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.

[48] 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.

[49] Schedule 2 Licences with access to very low flows

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Omit “*Water Act 1912 licences*”. Insert instead “*Water Act 1912 entitlements*”.

[50] Schedule 2

Insert at the end of the list of Water Act Licences (Non Local Water Utilities):

30BL179603

30BL182109

30BL182406

[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
10 Valentine Ave
PARRAMATTA NSW 2150

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

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
AMP Centre
24 Gordon Street
COFFS HARBOUR NSW 2450

[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
Level 3, 49 Victoria Street
GRAFTON NSW 2460