



New South Wales

Water Sharing Plan for the Lower North Coast 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 Lower North Coast 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 Lower North Coast Unregulated and Alluvial 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 Lower North Coast Unregulated and Alluvial Water Sources Amendment Order 2013

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1 Name of Order

This Order is the *Water Sharing Plan for the Lower North Coast 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 Lower North Coast Unregulated and Alluvial 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 (WSP001_Version 1), Water Sharing Plan for the Lower North Coast 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.

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

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

[3] Clause 4 (4) (a), Note

Omit the note. Insert instead:

Note. This exclusion applies to the Manning River Tidal Pool Water Source, Myall Lakes Water Source, Coolongolook River Water Source, Wallamba River Water Source and part of the Manning Estuary Tributaries Water Source.

[4] Clause 16

Omit the clause. Insert instead:

16 Flow reference points

- (1) Subject to subclause (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 clause 17 (2) of this Plan.
- (3) The Minister may amend the flow reference points in the Myall River, Coolongolook River, or the Wallamba River Water Sources, during the term of this Plan, based on the outcomes of further field verification or studies carried out under clause 17 (2) (h) of this Plan.
- (4) If in the Minister’s opinion, on any day accurate flow data is not available from a flow measuring gauge used to determine a flow class specified in clause 17 (1), the Minister may determine the flow class that applies for that day and notify the licence holder in writing, the flow class that applies for that day. For the purpose of this 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 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.

[5] Clause 17 Flow classes for these water sources

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

Note. The following flow classes apply to all access licences extracting from surface water specified for each water source from the commencement date of this Plan, excluding those access licences to which clause 19 (3) (f) applies and access licences that nominate a work that is 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 40 metres of the high bank, flow classes in clause 17 (1) will not apply except where provided for under clause 67 (2) of this Plan.

[6] Clause 17 (1) (a) (iii)

Omit “if when flows”. Insert instead “is when flows”.

[7] Clause 17 (1) (c)

Omit “Lower Barrington River Upper Reach Management Zone”.

Insert instead “Lower Barrington River Upper Reaches Management Zone”.

[8] Clause 17 (1) (c) (iii)

Omit “if when flows”. Insert instead “is when flows”.

[9] Clause 17 (1) (p) (i), Note

Insert a full stop at the end of the note to clause 17 (1) (p) (i).

[10] Clause 17 (1) (q) (iii)

Omit “if when flows”. Insert instead “is when flows”.

[11] Clause 17 (1) (q) (iii), Note

Omit the note. Insert instead:

Note. Major utility access licences extracting water in this water source may only extract from B class flows as required by the rule in clause 19 (3) (e) which reflects current licensed operating procedures.

[12] Clause 17 (1) (u)–(x)

Omit the paragraphs. Insert instead:

(u) for the Upper Myall River Management Zone of the Myall River Water Source, as measured at the Markwell River Bridge on Markwell Road, 2.5km north of Bulahdelah:

(i) the Very Low Flow Class is when there is no visible flow, and

(ii) A Class is when there is a visible flow,

Note. The Myall River Water Source also has an access rule which only permits extraction from the river where the flow occurring for the first 24 hours after flows have exceeded the Very Low Flow Class has passed.

Note. The flow classes and flow reference points for the Myall River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

Note. The augmentation of the local water utility in this water source may trigger review of the flow access rules specified within this Plan in accordance with clause 17 (2) (d).

- (v) for the Crawford River Management Zone of the Myall River Water Source, as measured immediately upstream of the Crawford River weir pool:

- (i) the Very Low Flow Class is when there is no visible flow, and

- (ii) A Class is when there is a visible flow,

Note. The Myall River Water Source also has an access rule which only permits extraction from the river where the flow occurring for the first 24 hours after flows have exceeded the Very Low Flow Class has passed.

Note. The augmentation of the local water utility in this water source may trigger review of the flow access rules specified within this Plan in accordance with clause 17 (2) (d).

Note. The flow classes and flow reference points for the Myall River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

- (w) for the Tidal Myall River Management Zone of the Myall River Water Source, no flow classes are established by this Plan,

Note. The augmentation of the local water utility in this water source may trigger review of the flow access rules specified within this Plan in accordance with clause 17 (2) (d).

Note. The flow classes and flow reference points for the Myall River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

- (x) for the Upper Coolongolook River Management Zone of the Coolongolook River Water Source, as measured at the Coolongolook Rivers Locketts Crossing on the Locketts Crossing Road, 1.5km south of Coolongolook:

- (i) the Very Low Flow Class is when there is no visible flow, and

- (ii) A Class is when there is a visible flow,

Note. The Coolongolook River Water Source also has a mandatory condition which only permits extraction from the river where the flow occurring for the first 24 hours after flows have exceeded the Very Low Flow Class has passed.

Note. The flow classes and flow reference points for management zones in the Coolongolook River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

- (y) for the Wang Wauk River Management Zone and the Tidal Coolongolook River Management Zone of the Coolongolook River Water Source, no flow classes are established by this Plan,

Note. The flow classes and flow reference points for management zones in the Coolongolook River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

- (z) for the Upper Wallamba River Management Zone of the Wallamba River Water Source, as measured at the Dargavilles Crossing on the Dargavilles Road, 2km west of Nabic:

- (i) the Very Low Flow Class is when there is no visible flow, and

- (ii) A Class is when there is a visible flow, and

Note. The Wallamba River Water Source also has an access rule which only permits extraction from the river where the flow occurring for the first 24 hours after flows have exceeded the Very Low Flow Class has passed.

Note. The flow classes and flow reference point for the Wallamba River Water Source may be amended during the term of this Plan in line with clause 17 (2) (h).

Note. The Upper Wallamba River Management Zone of the Wallamba River Water Source may have its flow classes amended, as set out under clause 17 (2) (f) of this Plan.

- (aa) for the Khappinghat Creek Management Zone and the Tidal Wallamba River Management Zone of the Wallamba River Water source, no flow classes are established by this Plan.

[13] Clause 17 (2) (d)

Omit “based on”. Insert instead “after”.

[14] Clause 17 (2) (f)

Omit the paragraph. Insert instead:

- (f) the Upper Wallamba River Management Zone of the Wallamba River Water Source, after year five of this Plan, such that the top of the Very Low Flow Class is at or below the 95th percentile flow following the installation of appropriate flow measuring infrastructure within the water source,

[15] Clause 17 (2) (g)

Insert “flow measuring” before “infrastructure” wherever occurring.

[16] Clause 17 (2) (i)

Insert “of this Plan” after “during the term”.

[17] Clauses 19 (3)

Omit the subclause. Insert instead:

- (3) Subject to subclause (8), the planned environmental water established in subclauses (1) (b) and (c) is maintained as follows:
- (a) subject to paragraph (f), 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 (f), 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 (f), an access licence must not be used to take water:
 - (i) if there is no visible flow in the water source at the location at which water is proposed to be taken, or

- (ii) where water is being taken from a pool, if there is no visible inflow and outflow to and from that pool,
- (d) subject to paragraph (f), water must not be taken under an access licence with a share component or extraction component that specifies one of the following water sources or management zones for a 24 hour period after flows in the water source or management zone have exceeded the top of the Very Low Flow Class at the end of the fresh water tributaries for the respective water source or management zone:
- (i) Myall River Water Source,
 - (ii) Coolongolook River Water Source, and
 - (iii) Khappinghat Creek Management Zone, Upper Wallamba River Management Zone and the Tidal Wallamba River Management Zone of the Wallamba River Water Source,
- (e) water must not be taken under one of the following access licences when flows are in the Very Low Flow Class or A Class:
- (i) an unregulated river (subcategory “Aboriginal community development”) access licence,
 - (ii) an unregulated river (high flow) access licence, or
 - (iii) a major utility access licence with an extraction component which specifies the Lower Barnard River Upper Reaches Management Zone of the Lower Barnard River Water Source,
- (f) paragraphs (a)–(d) 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 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 (g):
 - (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 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 3 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 an access licence that nominates 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 68,

- (v) the taking of water for the purposes of town water supply only under a local water utility access licence to which Schedule 2 applies, excluding local water utility access licences held by the local water utility for Bottawa Dam that have arisen from the *Water Act 1912* entitlement 20SL022548, until such time as the Minister is satisfied that major augmentation of the access licence holder's water supply system has occurred, and
- (vi) the taking of water under a local water utility access licence to which Schedule 2 applies held by the local water utility for Bottawa Dam that have arisen from the *Water Act 1912* entitlement 20SL022548,
- (g) the Minister may, in relation to an access licence to which paragraph (f) (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 (i),
- (h) the access rules specified in clauses 41A and 67 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,
- (i) in all flows in the Myall Lakes Water Source, the application of Part 8 and clause 35 (2) prohibits the extraction of water in this water source under a water access licence,
- (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,
- (l) 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, or
 - (iii) a new unregulated river (subcategory "Aboriginal community development") access licence granted after the commencement of this Plan, and
- (m) 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.

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 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.

[18] Clause 19 (5)

Omit the subclause. Insert instead:

- (5) The Minister may amend subclause (3), to identify pools in the rivers in these water sources, that require special protection and establish access rules such that extraction of water is not permitted from pools when water levels fall below a control level at a site established in accordance with clause 88.

[19] Clause 19 (6)

Omit “89 (4)”. Insert instead “88 (4)”.

[20] Clause 19 (7) and (8)

Insert after clause 19 (6):

- (7) Following an amendment under subclause (5), the Minister may amend subclause (3) such that access licences on pools subject to a pool control level rule are not subject to an access rule that requires a visible inflow and outflow to and from that pool.
- (8) 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.

[21] Clause 20 Adaptive environmental water

Omit the clause.

[22] Clause 29 Share components of major utility access licences

Omit “54” from the note to the clause. Insert instead “56”.

[23] Clause 29, Note

Omit “20,000 ML/yr”. Insert instead “20,000 ML/year”.

[24] Clause 34 Rules for granting access licences

Omit “high flow” from the note to clause 34 (2) (a). Insert instead “(high flow)”.

[25] Clause 34 (4), Note

Omit the note. 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).

[26] Clause 34 (5)

Insert at the end of clause 34 (4):

- (5) An application may not be made for an access licence with a share component that specifies the Myall Lakes Water Source.

[27] Clause 36

Omit the clause. Insert instead:

Clause 36 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 77A (6) of the Act,
- (c) the amendment of the share component of the access licence by the Minister under section 68A of the Act, 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. 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.

Note. Following the assignment of water allocations from a water allocation account of an access that nominates an approval for a runoff harvesting

[28] Clauses 39 (1), 40 (1) and 41 (1)

Omit the clauses. Insert instead:

- (1) A water supply work approval shall 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:

[29] Clause 41 Rules for granting or amending water supply work approvals near sensitive environmental areas

Omit "may be amended" from clause 41 (4). Insert instead "do not apply".

[30] Clause 41A

Insert after clause 41:

41A 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 39–41, 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 39–41, 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 clauses 39 (2) (a) and (c), and (3), 40 (3) (a) and 41 (2), 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 39–41 pursuant to clauses 39 (3), 40 (2), 41 (3) (b) 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 39 (2), 40 (2), 41 (3) (b) 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.

[31] Clause 46 Assessment of the long-term average annual extraction limit

Omit clause 46 (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 44 for the respective extraction management unit against the annual extraction averaged over the preceding three water years for that extraction management unit.

[32] Clause 47 Compliance with the long-term average annual extraction limits

Omit clause 47 (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 46 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 44 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 46 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 44 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.

[33] Clause 56 Individual access licence account management rules

Omit clause 56 (3), (4) and (5). Insert instead:

- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, the maximum volume of water that may be taken under a domestic and stock access licence, local water utility access licence, unregulated river access licence, unregulated river (high flow) access licence or an aquifer access licence to which this clause applies must not exceed a volume equal to 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 maximum volume of water that may be taken under a domestic and stock access licence, local water utility access licence, unregulated river access licence, unregulated river (high flow) access licence or an aquifer access licence to which this clause applies must not exceed a volume equal to:

- (a) 50% of the water allocations accrued to the water allocation account for the access licence from available water determinations in the first water year, plus
 - (b) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in the second and third water years, plus
 - (c) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in those water years, plus
 - (d) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in those water years.
- (5) The maximum water allocation that can be carried over in the water allocation account for a domestic and stock access licence, local water utility access licence, unregulated river access licence, unregulated river (high flow) access licence or an aquifer access licence to which this clause applies, from one water year to the next is equal to:
- (a) 100% of the access licence share component for access licences with share components expressed as ML/year, or
 - (b) 1 ML per unit share of access licence share component for access licences with share components expressed as a number of unit shares.

[34] Clause 56 (7), Notes

Omit the notes. Insert instead:

Note. The five year rolling average accounting period will commence from 1 July 2009 in line with revised licence conditions. This ensures that the annual average extraction will not exceed 20,000 ML/year. Extractions are limited to a maximum annual diversion of 30,000 ML as specified in clause 29 of this Plan.

Note. The maximum volume that may be taken under a major utility access licence as specified in subclause (7) may be amended during the term of this Plan as outlined in clause 84.

[35] Clause 66 Access to the Very Low Flow Class in these water sources

Omit “76” from clause 66. Insert instead “19 (3) (f)”.

[36] Clause 67

Omit the clause. Insert instead:

Clause 67 Access licences which nominated water supply works which may be used to take water from alluvial sediments in these water sources

- (1) Subject to subclause (5), 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, shall, 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.
- (2) Subject to subclause (5), any aquifer access licence arising from a dealing involving the conversion of an unregulated river access licence to an aquifer access licence, under Part 12 of this Plan, shall 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) Subject to subclause (5), 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, shall 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 shall be taken to mean a visible flow in the river immediately adjacent to the water supply work being used to take water from the alluvial sediments.
- (5) Subclauses (1) 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*.

[37] Clause 69 Rules relating to constraints within these water sources

Omit “high flow” from clause 69 (2) (a). Insert instead “(high flow)”.

[38] Part 13

Omit the Part. Insert instead:

Part 13 Mandatory conditions

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

Division 1 General

74 General

In this Part:

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

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

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

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

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

Division 2 Access licences

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

75 General

- (1) All 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 conditions 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 metered water supply works with a data logger, must have mandatory conditions where required to give effect to the following:
 - (a) the holder of the access licence must keep a Logbook,
 - (b) the holder of the access licence must record the following in the Logbook:
 - (i) each date and period of time during which water was taken under the access licence,
 - (ii) the volume of water taken on that date,
 - (iii) the water supply work approval number of the water supply work used to take the water on that date,
 - (iv) the purpose or purposes for which the water was taken on that date,
 - (v) for domestic and stock access licences, local water utility access licences, unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences, the volume of water taken in the first three water years in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 56 (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 56 (3), and
 - (vii) any other information required to be recorded in the Logbook under the rules of this Plan,
 - (c) the holder of the access licence must produce the Logbook to the Minister for inspection, when requested, and
 - (d) the holder of the 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 under 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 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 and Division 3 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 Division 4 of Part 11 of this Plan.

Division 3 Water supply work approvals

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

76 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 of Part 11 of this Plan, and Division 4 of Part 11 of this Plan,
 - (b) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements:
 - (i) the metering equipment must accurately measure and record the flow of all water taken through the water supply work,
 - (ii) the metering equipment must comply with *Australian Technical Specification ATS 4747, Meters for non-urban water supply* as may be updated or replaced from time to time,
 - (iii) the metering equipment must be operated and maintained in a proper and efficient manner at all times,
 - (iv) the metering equipment must be sited and installed at a place in the pipe, channel or conduit between the water source and the first discharge outlet. There must be no flow of water 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 5 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) 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.
- (6) Water supply work approvals for runoff harvesting dams and in-river dams must have a mandatory condition where required to give effect to clauses 36 and 37.

77 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 being 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 41A,
 - (b) the approval holder must ensure the water supply work is constructed so as to be:
 - (i) screened in the alluvial sediments in the water source specified in the share component of the access licence that nominates the water supply work, and
 - (ii) sealed off from all other sources of water,
 - (c) the construction of a new water supply work must:
 - (i) comply with the restricted distances specified in or specified by the Minister in accordance with clauses 38–41,
 - (ii) comply with the construction standards for that type of bore in the *Minimum Construction Requirements for Water Bores in Australia*,
 - (iii) be constructed appropriately so as to prevent contamination between aquifers, and
 - (iv) be constructed so as 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 work has been decommissioned,
 - (f) the approval holder must, within two months of completion of the construction of the water supply work or within two months after the issue of the approval if the

work is existing, submit to the Department in a form approved by the Minister, the details of the work,

- (g) if, during the construction of the 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 work and if specified by the Minister, place 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) the water supply work approval will lapse if the construction of the water supply work is not completed within three years of the issue of the 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 39 (3) applies, must have a mandatory condition where required to give effect to clause 39 (3).

[39] Clause 84 Rules for major utility storages

Insert “less than or” before “equal to” in clause 84 (1) (b).

[40] Clause 85

Omit the clause. Insert instead:

Clause 85 Amendment of this Plan

- (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 amendments 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 86 Amendment of very low flow provisions

Omit clause 86 (1). Insert instead:

- (1) The Minister may amend this Plan to amend the Very Low Flow Classes and the bottom of A Classes for the Upper Barrington River, the Upper Gloucester River, the Bowman River, the Lower Barrington/Gloucester Rivers, the Dingo Creek, the Lower Manning River, the Mid Manning River and the Upper Manning River Water Sources established in clauses 17 (1) (b), (c), (d), (h), (i), (j), (o), (p) and (s) following field verification and the review of relevant studies.

[42] Clause 92 Amendment in relation to Schedule 2 (Very Low Flow)

Omit clause 92 (a). Insert instead:

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

[43] Clause 92 (b)

Omit “former”.

[44] Clause 92 (b) (i)

Omit “extracted”. Insert instead “taken”.

[45] Clause 92 (c)–(f)

Insert after clause 92 (c):

- (d) add an 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,
- (e) remove an access licence or *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
- (f) for the purposes of paragraphs (d) and (e), 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.

[46] Clauses 93 and 94

Insert after clause 92:

93 Amendments in relation to 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 76 and 77 to specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works.

94 Other

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

[47] 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 work approval, means a written record, kept in hard copy or electronic form, which accurately records all information required to be kept in relation to the access licence or water supply work approval under the rules 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.

[48] 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.

[49] Schedule 1

Omit the definitions of recharge and registered plan for these water source.

[50] 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.

[51] Schedule 2

Omit the schedule. Insert instead:

Schedule 2 Licences with access to very low flows

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

VERY LOW FLOW ACCESS LICENCES			
20SL021370	20SL033839	20SL060028	20SL060246
20SL021476	20SL034011	20SL060029	20SL060251

20SL021507	20SL034799	20SL060057	20SL060256
20SL021509	20SL035247	20SL060093	20SL060258
20SL021559	20SL035393	20SL060108	20SL060294
20SL021660	20SL035645	20SL060110	20SL060305
20SL021717	20SL036378	20SL060126	20SL060307
20SL021964	20SL040731	20SL060127	20SL060308
20SL023478	20SL041763	20SL060131	20SL060320
20SL024073	20SL043052	20SL060143	20SL060323
20SL024444	20SL044477	20SL060173	
20SL024596	20SL049302	20SL060200	20SL060356
20SL027211	20SL050162	20SL060217	20SL060361
20SL027959	20SL050357	20SL060230	20SL060363
20SL028376	20SL050676	20SL060235	20SL060367
20SL031506	20SL051915	20SL060236	20SL060376
20SL031541	20SL060015	20SL060237	20SL060400
20SL031823	20SL060023	20SL060240	20SL060409
	20SL060027	20SL060242	20SL060415
20SL060439	20SL061087	20BL166823	
20SL060443	20SL061089	20BL167130	
20SL060561	20SL061094	20BL168359	
20SL060564	20SL061096		
20SL060574	20SL061119		
20SL060575	20SL061127		
20SL060578	20SL061133		
20SL060646	20SL061142		
20SL060647	20SL061145		
20SL060760	20SL061176		
20SL060764	20SL061183		
20SL060840	20SL061453		
20SL060865	20SL061591		
20SL060873	20SL061611		
20SL060879	20SL061632		
20SL060925	20SL021737		
20SL060927	20SL061726		
20SL060989	20SL061102		
20SL061075			
LOCAL WATER UTILITY ACCESS LICENCES			
Lower Manning	20SL022548 20SL046844	Myall River	20SL022558
Manning Estuary Tributaries	20SL022548 20SL029347	Lower Barrington/Gloucest	20SL060565 20SL045139
Manning Tidal Pool	20SL029347		

[52] 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, 26 Honeysuckle Drive
DANGAR NSW 2309

[53] 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