



Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources Amendment Order 2016

under the

Water Management Act 2000

I, Niall Blair, the Minister for Lands and Water, in pursuance of sections 45 (1) (a) and 45A 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 Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011*.

Dated this 29th day of June 2016.

NIALL BLAIR, MLC
Minister for Lands and Water

Explanatory note

This Order is made under sections 45 (1) (a) and 45A of the *Water Management Act 2000*. The object of this Order is to amend the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011*. The concurrence of the Minister for the Environment was obtained prior to the making of this Order as required under section 45 of the *Water Management Act 2000*.

Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources Amendment Order 2016

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1 Name of Order

This Order is the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources Amendment Order 2016*.

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 Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011

[1] Clause 1 Name of this Plan

Omit the clause. Insert instead:

This Plan is the *Water Sharing Plan for the Castlereagh River Unregulated and Alluvial Water Sources 2011* (hereafter **this Plan**).

Note. The name of this Plan has been amended to the *Water Sharing Plan for the Castlereagh River Unregulated and Alluvial Water Sources 2011* from the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources 2011*.

[2] Clause 4 Application of this Plan

Omit clause 4 (1) (v) and (vi). Insert instead:

- (v) Teridgerie Creek Water Source,
- (vi) Tooraweenah to Coonamble Tributaries Water Source, and
- (vii) Castlereagh River above Binnaway Water Source, and

[3] Clause 4 (2)

Omit the subclause and the note to the subclause. Insert instead:

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP012_Version 2), Water Sharing Plan for the Castlereagh River Unregulated and Alluvial Water Sources 2011* (hereafter **the Plan Map**) held by the Department.

Note. The Plan Map is part of this Plan. An overview of the Plan Map is shown in Appendix 1. Copies of the Plan Map may be inspected at the offices listed in Appendix 2 and are available on the NSW legislation website.

[4] Clause 4 (3)

Omit the subclause. Insert instead:

- (3) Subject to subclause (5), the Castlereagh River Unregulated Water Sources, excluding the Castlereagh River above Binnaway Water Source, include all water:
 - (a) occurring naturally on the surface of the ground within the boundaries of the Castlereagh River Unregulated Water Sources, excluding the Castlereagh River above Binnaway Water Source, shown on the Plan Map,
 - (b) in rivers, lakes and wetlands within the boundaries of the Castlereagh River Unregulated Water Sources, excluding the Castlereagh River above Binnaway Water Source, shown on the Plan Map, and

- (c) contained within all alluvial sediments on or below the surface of the ground within the bed and the top of the high banks of rivers within the boundaries of the Castlereagh River Unregulated Water Sources, excluding the Castlereagh River above Binnaway Water Source, shown on the Plan Map (hereafter *these alluvial sand beds*).

[5] Clause 4 (3A)

Insert after clause 4 (3):

(3A) Subject to subclause (5), the Castlereagh River above Binnaway Water Source includes all water:

- (a) occurring naturally on the surface of the ground within the boundaries of the Castlereagh River above Binnaway Water Source shown on the Plan Map, and
- (b) in rivers, lakes and wetlands within the boundaries of the Castlereagh River above Binnaway Water Source shown on the Plan Map.

[6] Clauses 4 (4) and 5 (2), 6 (2), 71 (d) and Appendix 2

Omit “Registered Map” wherever occurring. Insert instead “Plan Map”.

[7] Clause 4 (5)

Omit the subclause. Insert instead:

- (5) These water sources do not include water:
- (a) contained in any fractured rocks or porous rocks, or
- (b) taken under a floodplain harvesting access licence with a share component that does not specify one of these water sources.

[8] Clause 4 (6)

Insert after clause 4 (5):

- (6) This Plan, as amended by *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources Amendment Order 2016* replaces the *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003*.

[9] Clause 5 Management zones

Omit clause 5 (1). Insert instead:

- (1) For the purposes of this Plan, the following water sources are divided into the following management zones:

(a) Binnaway to Gilgandra Water Source:

(i) Castlereagh River Binnaway to Gilgandra Management Zone, and

Note. The Castlereagh River Binnaway to Gilgandra Management Zone is the area of the Binnaway to Gilgandra Water Source including only the Castlereagh River from Binnaway to Gilgandra.

(ii) Binnaway to Gilgandra Tributaries Management Zone, and

Note. The Binnaway to Gilgandra Tributaries Management Zone is the area of the Binnaway to Gilgandra Water Source excluding the Castlereagh River from Binnaway to Gilgandra.

(b) Castlereagh River above Binnaway Water Source:

(i) Castlereagh River - Timor Dam to Pound Yard Weir Management Zone,

(ii) Castlereagh River - Pound Yard Weir to Merryula Road Crossing Management Zone,

(iii) Castlereagh River - Merryula Road Crossing to Belar Creek Confluence Management Zone,

(iv) Castlereagh River - Belar Creek Confluence to New Mollyann Road Management Zone,

(v) Belar Creek Management Zone, and

(vi) Independent Tributaries Management Zone.

Note. The Independent Tributaries Management Zone includes all rivers in this water source apart from the main trunk of the Castlereagh River and Belar Creek.

Note. *Management zone* is defined in the Dictionary.

[10] Clause 6 Extraction management units in these water sources

Omit the note at the end of clause 6 (1).

[11] Clause 6 (2)

Insert at the end of the clause:

Note. The Castlereagh Valley Extraction Management Unit was established under the *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003*.

[12] Clause 6 Table A

Insert “Castlereagh River above Binnaway Water Source” in appropriate order in Column 2 of the matter relating to Castlereagh Valley Extraction Management Unit.

[13] Clause 6

Omit the note to Table A.

[14] Clause 8 Interpretation

Omit clause 8 (2). Insert instead:

- (2) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations made under the Act have the same meaning in this Plan.

[15] Clause 9A

Insert after clause 9:

9A Acknowledgement

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within these water sources.

[16] Clause 11 Strategies

Insert “allocation” before accounts in clause 11 (g).

[17] Clause 11 (h)

Omit “extracted” from the paragraph. Insert instead “taken”.

[18] Clause 14 Climatic variability

Insert “for” after “manage” in the note.

[19] Clause 17 Establishment and maintenance of planned environmental water

Insert “that” after “water” in clause 17 (2) (a).

[20] Clause 17 (2) (a) (ii) and note

Omit the subparagraph and note. Insert instead:

- (ii) is equal to 75% of the long-term average annual rainfall recharge in areas that are not high environmental value areas and 100% of the long-term average annual rainfall recharge in high environmental areas to the Castlereagh Alluvial Groundwater Source, and

Note. At the commencement of this Plan the long-term average annual rainfall recharge for the Castlereagh Alluvial Groundwater Source is estimated to be 2,478 megalitres per year in those areas that are not high environmental value areas and 10.4 megalitres per year in high environmental value areas.

[21] Clause 17 (2) (b) (ii)

Omit the subparagraph. Insert instead:

- (ii) the Castlereagh Alluvial Groundwater Source, which is equal to 75% of the long-term average annual rainfall recharge in areas that are not high environmental value areas and 100% of the long-term average annual rainfall recharge in high environmental areas, and

[22] Clause 19 Domestic and stock rights

Omit “At the commencement of this Plan, the”. Insert instead “The”.

[23] Clause 19

Omit “2.37”. Insert instead “2.82”.

[24] Clause 19 (f) and (g)

Omit the paragraphs. Insert instead:

(f) 0.29 ML/day in the Tooraweenah to Coonamble Tributaries Water Source,

(g) 0.23 ML/day in the Castlereagh Alluvial Groundwater Source, and

(h) 0.45 ML/day in the Castlereagh River above Binnaway Water Source.

[25] Clause 20 Native title rights

Omit “At the commencement of this Plan, there”. Insert instead “There”.

[26] Clause 21 Harvestable rights

Insert “Division 2” before “Part 1 of Chapter 3”.

[27] Clause 22 Share components of domestic and stock access licences

Omit “at the time of commencement of this Plan”.

[28] Clause 22

Omit “395”. Insert instead “399”.

[29] Clause 22 (f) and (g)

Omit the paragraphs. Insert instead:

(f) 20 ML/year in the Tooraweenah to Coonamble Tributaries Water Source,

(g) 0 ML/year in the Castlereagh Alluvial Groundwater Source, and

(h) 4 ML/year in the Castlereagh River above Binnaway Water Source.

[30] Clause 23 Share components of local water utility access licences

Omit “at the time of commencement of this Plan.”

[31] Clause 23

Omit “1,820”. Insert instead “2,779”.

[32] Clause 23 (f) and (g)

Omit the paragraphs. Insert instead:

- (f) 37 ML/year in the Tooraweenah to Coonamble Tributaries Water Source,
- (g) 0 ML/year in the Castlereagh Alluvial Groundwater Source, and
- (h) 959 ML/year in the Castlereagh River above Binnaway Water Source.

[33] Clause 24 Share components of unregulated river access licences

Omit “at the time of commencement of this Plan”.

[34] Clause 24

Omit “13,322”. Insert instead “17,312”.

[35] Clause 24 (a) – (f)

Omit the paragraphs. Insert instead:

- (a) 8,253 unit shares in the Binnaway to Gilgandra Water Source,
- (b) 1,512 unit shares in the Castlereagh River below Coonamble Water Source,
- (c) 3,190 unit shares in the Castlereagh River Gilgandra to Coonamble Water Source,
- (d) 0 unit shares in the Nedgera Creek Water Source,
- (e) 48 unit shares in the Teridgerie Creek Water Source,
- (f) 69 unit shares in the Tooraweenah to Coonamble Tributaries Water Source, and
- (g) 4,240 unit shares in the Castlereagh River above Binnaway Water Source.

[36] Clause 25 Share components of aquifer access licences

Omit “at the time of commencement of this Plan”.

[37] Clause 26 Share components of unregulated river (special additional high flow) access licences

Omit “at the time of commencement of this Plan”.

[38] Clause 28 Volume of the long-term average annual extraction limits

Omit clause 28 (2) and the note to the subclause. Insert instead:

- (2) The long-term average annual extraction limit for the EMU is the sum of:
 - (a) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the Water Act 1912 in the EMU,
 - (b) the annual water requirements pursuant to domestic and stock rights and native title rights in the following water sources at the commencement of this Plan:
 - (i) Binnaway to Gilgandra Water Source,
 - (ii) Castlereagh River below Coonamble Water Source,
 - (iii) Castlereagh River Gilgandra to Coonamble Water Source,

- (iv) Nedgera Creek Water Source,
 - (v) Teridgerie Creek Water Source, and
 - (vi) Tooraweenah to Coonamble Tributaries Water Source, plus
- (c) the annual water requirements pursuant to domestic and stock rights and native title rights in the Castlereagh River above Binnaway Water Source at the commencement of the *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003*, plus
- (d) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 by floodplain harvesting activities for which floodplain harvesting access licences were later issued in the EMU.

Note. In unregulated river water sources (including those in the Castlereagh Valley Extraction Management Unit) the extraction of water by floodplain harvesting activities is typically already accounted for within the existing access licence share components. However, there may be instances where this is not the case and floodplain harvest access licences will be issued in accordance with the *NSW Floodplain Harvesting Policy*. Subclause (2) (d) applies only to those estimated extractions for which floodplain harvesting access licences are later issued, and not to estimated extractions under entitlements issued under Part 2 of the *Water Act 1912*.

[39] Clause 28 (3) and note

Omit the subclause and note. Insert instead:

- (3) The long-term average annual extraction limit for the Castlereagh Alluvial Groundwater Source is 621 ML/year.

Note. The long-term average annual extraction limit for the Castlereagh Alluvial Groundwater Source is as follows:

- (a) an estimate of annual extractions of water for those entitlements issued under Part 5 of the *Water Act 1912* in this water source; plus
- (b) an estimate of annual water requirements for domestic and stock rights and native title rights in this water source.

[40] Clause 28 (4)

Omit the subclause.

[41] Clause 32 Compliance with the long-term average annual extraction limit for the Castlereagh Valley Extraction Management Unit

Omit the note to clause 32 (3).

[42] Part 7 Rules for granting access licences

Omit the notes to the Part. Insert instead:

Notes.

- 1 This Part is made in accordance with sections 20, 61 and 63 of the Act.

- 2 Access licences granted in these water sources will be subject to mandatory conditions and may be subject to discretionary conditions.

[43] Clause 40 Specific purpose access licences

Insert after clause 40 (3):

- (4) An access licence of the subcategory “Aboriginal cultural” may only be granted for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

Note. *Aboriginal person* is defined in the Dictionary.

[44] Clause 43 Individual access licence account management rules for the Castlereagh River Unregulated Water Sources

Omit “(4)” from clause 43 (3) (a) (ii). Insert instead “(5)”.

[45] Clause 46

Insert “**from these water sources, excluding the Castlereagh River above Binnaway Water Source**” at the end of the heading.

[46] Clause 46 (1)

Omit the subclause. Insert instead:

- (1) This clause applies to the taking of water under an access licence from these water sources, excluding the taking of water:
- (a) from the Castlereagh Alluvial Groundwater Source,
 - (b) from the Castlereagh River above Binnaway Water Source,
 - (c) in association with an aquifer interference activity that is an approved EP&A Act development when:
 - (i) in the Minister’s opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause,
 - (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved in accordance with the development consent for the activity under the *Environmental Planning and Assessment Act 1979*, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause, or

- (d) in association with an aquifer interference activity when:
 - (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause,
 - (ii) the access licence holder has a water management plan for that aquifer interference activity that has been approved by the Minister, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause.

Note. *Approved EP&A Act development* is defined in the Dictionary.

[47] Clause 46 (2)

Omit the subclause. Insert instead:

- (2) Subject to subclause (7), water must not be taken under an access licence if there is no visible flow at the location at which water is proposed to be taken. This subclause does not apply to the taking of water:
 - (a) under an access licence to which subclause (4) or (5) applies, or
 - (b) from a natural pool, lagoon or lake that is not within a river or stream (regardless of stream size), is on a flood-runner or floodplain, or is on an effluent that only commences to flow during high flows.

[48] Clause 46 (3)

Omit the subclause. Insert instead:

- (3) Subject to subclause (7), water must not be taken under an access licence from a natural pool, lagoon or lake that is not within a river or stream (regardless of stream size), is on a flood-runner or floodplain, or is on an effluent that only commences to flow during high flows, when the water level in that pool, lagoon or lake is less than the full capacity of the respective pool, lagoon or lake.

Note. *Full capacity* is defined in the Dictionary.

[49] Clause 46 (4)

Omit the subclause. Insert instead:

- (4) Subject to subclause (7), water must not be taken under an access licence specified in Column A of the table in Schedule 3, with a share component that specifies the water source in Column B of that, in contradiction of the access rule specified in Column C of that table.

[50] Clause 46 (5)

Omit the subclause. Insert instead:

- (5) Water must not be taken under an access licence specified in Column A of the table in Schedule 1A, with a share component that specifies the water source in Column B of that table, in contradiction of the access rule specified in Column C of the table.

Note. Those licences and their cease to take conditions have been identified as having pre-existing cease to pump thresholds higher than the upper limit of the relevant cease to take conditions specified in Schedule 1A.

[51] Clause 46 (7) (a)

Insert “or an access licence which replaces a *Water Act 1912* entitlement” before “to which clause 1 of Schedule 2 applies”.

[52] Clause 46A

Insert after clause 46:

46A Flow classes for the Castlereagh River above Binnaway Water Source

- (1) This Plan establishes the flow classes specified in Column 2 of Table B for the sharing of flows on a daily basis in the Castlereagh River above Binnaway Water Source.
- (2) Subject to clause (4), the flow classes in Column 2 of Table B are established for the management zone specified in Column 1 of Table B and for the access licence categories specified in Column 3 of Table B.
- (3) Subject to subclauses (4) and (5), a flow class applies in the respective management zone on the day specified in Column 5 of Table B when the flow (ML/day) as measured at the flow reference point is equal to the flow specified in Column 4 of Table B for the access licence category specified in Column 3 of Table B.
- (4) The flow classes in Table B do not take effect until such time as the Minister, by order published in the *Gazette*, prescribes the flow reference point to be used for the relevant flow class specified in Column 2 of Table B. The Minister will not prescribe any flow reference points under this clause unless in the Minister's opinion, suitable infrastructure can be installed or appropriate infrastructure can be used as a flow reference point for the relevant flow class. Notification of flow class commencement will be provided in writing by the Department to all affected licence holders.

Notes.

- 1 Prior to the making of an order under subclause (4), the Minister will consult with access licence holders on the proposed flow reference point. The Minister will also take into account the socio-economic impacts of the commencement of flow classes and the environmental water requirements of the management zone.
- 2 **Infrastructure** is defined in the Dictionary.
- (5) If flow classes have commenced under subclause (4) and, in the Minister's opinion, accurate flow data is not available on a particular day from a flow measuring gauge used to determine a flow class, then the Minister may determine the flow class that applies for that day and notify the licence holder in writing of the flow class that applies for that day. For the purpose of this subclause, notification includes publishing a notice on the Department's website.

- (6) For the purpose of determining flow classes that apply on a particular day under subclause (5), the Minister may consider evidence of past and current flows and readings at other functioning upstream and downstream gauges.

Note. On days that accurate flow data is not available, holders of access licences may contact the Department's office at the address listed in Appendix 3 or check the Department's website to find out what flow class applies on that day.

Notes. Only those management zones for which flow classes have been established are shown in Table B.

Table B—Flow Classes

Column 1 Management zone	Column 2 Flow class	Column 3 Access licence category	Column 4 Flow (ML/ day)	Column 5 Day on which flow class applies
Timor Dam to Pound Yard Weir Management Zone	Very Low Flow Class	1. Domestic and stock access licences 2. Local water utility access licences	Less than or equal to 3.3 ML/day	Same day
	A Class		More than 3.3 ML/day	Same day
	Very Low Flow Class	Unregulated river access licences	Less than or equal to 7.1 ML/day	Same day
	A Class		More than 7.1 ML/day	Same day
Pound Yard Weir to Merryula Road Crossing Management Zone	Very Low Flow Class	1. Domestic and stock access licences 2. Local water utility access licences	Less than or equal to 3.1 ML/day	Same day
	A Class		More than 3.1 ML/day	Same day
	Very Low Flow Class	Unregulated river access licences	Less than or equal to 3.2 ML/day	Same day
	A Class		More than 3.2 ML/day	Same day
Merryula Road Crossing to Belar Creek Confluence Management Zone	Very Low Flow Class	1. Domestic and stock access licences 2. Local water utility access licences	Less than or equal to 2.4 ML/day	Same day
	A Class		More than 2.4 ML/day	Same day
	Very Low Flow Class	Unregulated river access licences	Less than or equal to 3 ML/day	Same day
	A Class		More than 3 ML/day	Same day
Belar Creek Confluence to New Mollyann Road Management Zone	Very Low Flow Class	1. Domestic and stock access licences 2. Local water utility access licences	Less than or equal to 3.3 ML/day	Same day
	A Class		More than 3.3 ML/day	Same day
	Very Low Flow Class	Unregulated river access licences	Less than or equal to 4.3 ML/day	Same day
	A Class		More than 4.3 ML/day	Same day
Belar Creek Management Zone	Very Low Flow Class	1. Domestic and stock access licences 2. Local water utility access licences	Less than or equal to 1.6 ML/day	Same day
	A Class		More than 1.6 ML/day	Same day
	Very Low Flow Class	Unregulated river access licences	Less than or equal to 1.9 ML/day	Same day
	A Class		More than 1.9 ML/day	Same day

[53] Clause 46B

Insert after clause 46A:

46B Access rules for the taking of surface water from the Castlereagh River above Binnaway Water Source

- (1) This clause applies to the taking of water under an access licence from the Castlereagh River above Binnaway Water Source, excluding the taking of water:
 - (a) in association with an aquifer interference activity that is an approved EP&A Act development when:
 - (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause,
 - (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved in accordance with the development consent for the activity under the Environmental Planning and Assessment Act 1979, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause, or
 - (b) in association with an aquifer interference activity when:
 - (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause,
 - (ii) the access licence holder has a water management plan for that aquifer interference activity that has been approved by the Minister, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause.
- (2) Subject to subclause (6), water must not be taken under an access licence with an extraction component that specifies a management zone with a Very Low Flow Class that has commenced, when flows in that management zone are in the Very Low Flow Class. This subclause does not apply to:
 - (a) access licence 80AL700129, and
 - (b) the taking of water from an off-river pool.

Note. *Off-river pool* is defined in the Dictionary.
- (3) Subject to subclause (6), water must not be taken under an access licence when there is no visible flow at the location at which water is proposed to be taken. This subclause does not apply to the taking of water from:
 - (a) an in-river pool,

- (b) an off-river pool, and
- (c) access licence 80AL700129.

Note. *In-river pool* and *visible flow* are defined in the Dictionary.

- (4) Subject to subclause (6), water must not be taken under an access licence from an in-river pool when the volume in that pool is less than the full capacity of that pool.
- (5) Subject to subclause (6), water must not be taken from an off-river pool when the volume of water in that pool is less than the full capacity of the pool. This subclause does not apply to an access licence listed in Schedule 2A of this Plan.
- (6) Subclauses (2) — (5) do not apply to the following:
 - (a) the taking of water under an access licence to which clause 1 of Schedule 2A 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 subclause (7):
 - (i) fruit washing,
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for the purposes of hygiene,
 - (b) 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 the *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003*, provided that the volume of water taken does not exceed 1 kilolitre per house supplied by the access licence per day,

Note. The *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003* commenced on 1 July 2004.
 - (c) the taking of water using a runoff harvesting dam,
 - (d) the taking of water from an in-river dam pool when the in-river dam is passing all inflows,
 - (e) the taking of water under a local water utility access licence or an access licence of the subcategory “Town water supply” to which clause 2 of Schedule 2A applies.
- (7) The Minister may reduce the maximum daily volume limit imposed by the rule under subclause (6) (a) for an access licence if the Minister is satisfied that the reduced volume is sufficient to meet the relevant purpose referred to in that subclause.

Note. The method by which the Minister can reduce the maximum daily volume limit is by amending the mandatory conditions of the relevant water supply work approval. Under section 102 (3) of the Act, the mandatory conditions of an approval may be imposed, amended, revoked or

suspended by the Minister whenever it is necessary to do so in order to enable compliance with or to give effect to a relevant management plan.

[54] Clauses 47 (Note), 53 (1) (e), 56 (3) (Note), 66 (a) including the (Note), 69 (2) (f) and Schedule 5 (Note)

Omit “NSW Office of Water” wherever occurring. Insert instead “Department”.

[55] Part 9, Note

Omit the Note. Insert instead:

Notes.

- 1 This Part is made in accordance with sections 5, 21 and 95 of the Act.
- 2 Part 12 allows for amendments to be made to this Part.

[56] Clause 50 Granting or amending water supply work approvals

Omit the clause. Insert instead:

50 Granting or amending water supply work approvals

- (1) A water supply work must not be granted or amended to authorise an in-river dam on a third order or higher stream within the Castlereagh River above Binnaway Water Source.

Notes.

- 1 Water supply work approvals may be granted or amended for in-river dams on third order or higher streams within all water sources and management zones to which this Plan applies, other than those specified in subclause (1), consistent with the NSW Weirs Policy, the principles of the Act, the *Fisheries Management Act 1994* and any other relevant legislation.
 - 2 **Runoff harvesting dam** and **stream order** are defined in the Dictionary.
- (2) 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 of the Act of an access licence and then the cancellation of that access licence under section 77A (6) of the Act,
 - (c) the amendment of the share component of the access licence by the Minister under section 68A 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 or removal of that dam to ensure that the capability of the dam to capture water is reduced to reflect that reduction in share component.

Note. The Minister can require the modification of the dam by amending the mandatory conditions of an approval may be imposed, amended, revoked or suspended by the Minister whenever it is necessary to do so in order to enable compliance with or to give effect to a relevant management plan.

[57] Clause 52 Rules for amending water supply work approvals for replacement groundwater works

Omit “**Note**” from note heading in the clause. Insert instead “**Notes**”.

[58] Clauses 53 – 57

Omit the clauses. Insert instead:

53 Rules to minimise interference between water supply works

- (1) A water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister’s opinion, is or is proposed to be located within:
 - (a) 400 metres of a water supply work located on another landholding that is authorised to take water from the same water source that is nominated by another access licence,
 - (b) 200 metres of a water supply work located on another landholding that is authorised to take water from the same water source pursuant to basic landholder rights only,
 - (c) 100 metres from the boundary of the landholding on which the water supply work is located, unless the owner of the landholding adjoining the boundary has provided consent in writing,
 - (d) 500 metres of a water supply work that is authorised to take water from the same water source and is nominated by a local water utility access licence or a major utility access licence, unless the local water utility or major utility has provided consent in writing, or

- (e) 100 metres of a Department observation or monitoring bore, unless the Minister has provided consent in writing.
- (2) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
 - (a) the water supply work is solely for basic landholder rights,
 - (b) the water supply work is a replacement groundwater work,
 - (c) the water supply work is for the purpose of monitoring, environmental management or remedial works, or
 - (d) the location of the water supply work would result in no more than minimal impact on existing extractions within these water sources.
- (3) For the purposes of subclause (2) (d), the Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance will result in no more than minimal impact on existing extractions within these water sources.
- (4) The Minister may require the modification of a water supply work authorised under subclause (2) (d) to minimise the impact of the water supply work on existing water levels or extraction if the Minister is satisfied at a later time that the location of the water supply work is causing more than minimal impact on existing water levels or extraction.

54 Rules for water supply works located near contamination sources

- (1) A water supply work approval shall not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is or is proposed to be located:
 - (a) within 250 metres of the plume associated with a contamination source listed in Schedule 4, or
 - (b) between 250 metres and 500 metres from the plume associated with a contamination source listed in Schedule 4, unless the Minister is satisfied that no drawdown of water will occur within 250 metres of the plume associated with the contamination source.

Note. Drawdown is defined in the Dictionary.

- (2) In addition to subclause (1), a water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is or is proposed to be located at a distance from a plume associated with a contamination source listed in Schedule 4 that is likely to be insufficient to protect the water source or public health and safety.
- (3) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
 - (a) the proposed distance is adequate to protect the water source, its dependent ecosystems, and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring, environmental management or remedial works.
- (4) For the purpose of subclause (3) (a), the Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance would result in no greater impact on the water source, the environment and public health and safety.

55 Rules for water supply works located near sensitive environmental areas

- (1) A water supply work approval shall not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is or is proposed to be located within:
 - (a) 100 metres of a high priority groundwater dependent ecosystem listed in clause 1 of Schedule 5 — in the case of a water supply work used solely to take water pursuant to basic landholder rights,
 - (b) 200 metres of a high priority groundwater dependent ecosystem listed in clause 1 of Schedule 5 — in the case of a water supply work not used solely to take water pursuant to basic landholder rights,
 - (c) 500 meters of a high priority karst environment groundwater dependent ecosystem listed in clause 2 of Schedule 5,
 - (d) 40 metres of the top of the high bank of a river, or

- (e) 100 metres from the edge of an escarpment, where the location of the water supply work is to be above the escarpment.

Note. *Karst* and *escarpment* are defined in the Dictionary.

- (2) In addition to subclause (1), a water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is or is proposed to be located at a distance from a high priority groundwater dependent ecosystem or a karst environment groundwater dependent ecosystem listed in Schedule 5 if the construction or use of the water supply work at that distance is likely to cause more than minimal drawdown of that high priority groundwater dependent ecosystem. This subclause does not apply to water supply works that take, or that are proposed to take, water pursuant to basic landholder rights only.
- (3) The distance restrictions specified in subclause (1) (a) — (c) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied no more than minimal drawdown of water will occur at the perimeter of any high priority groundwater dependent ecosystem listed in Schedule 5.
- (4) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
 - (a) the water supply work is for the purpose of monitoring, environmental management or remedial works,
 - (b) the water supply work replaces an existing authorised water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply,
 - (c) the water supply work is a replacement groundwater work, or
 - (d) the location of the water supply work at a lesser distance would result in no greater impact on these water sources and their groundwater dependent ecosystems.
- (5) The Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that:

- (a) for the purpose of subclause (3), no more than minimal drawdown of water will occur at the perimeter of any high priority groundwater dependent ecosystem listed in Schedule 5, or
- (b) for the purpose of subclause (4) (d), the location of the water supply work at a lesser distance will result in no greater impact on these water sources and their groundwater dependent ecosystems.

56 Rules for water supply works located near groundwater dependent culturally significant sites

- (1) A water supply work approval shall not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is or is proposed to be located within:
 - (a) 100 metres of a groundwater dependent culturally significant site in the case of a water supply work that will be authorised to take water pursuant to basic landholder rights only, or
 - (b) 200 metres of a groundwater dependent culturally significant site in the case of a water supply work that will be nominated by an access licence.

Note. Groundwater dependent culturally significant sites are currently under investigation and may be identified during the term of this Plan. The full list of potential groundwater dependent culturally significant sites will be identified in the Aboriginal Water Initiative System (AWIS) and, as a precautionary approach, will be considered by staff in the assessment of any application for a water supply work approval within the area of this Plan.

- (2) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
 - (a) the water supply work is for the purpose of monitoring, environmental management or remedial works,
 - (b) the water supply work replaces an existing authorised water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply,
 - (c) the water supply work is a replacement groundwater work, or

- (d) the location of the water supply work at a lesser distance will result in no greater impact on these water sources and their groundwater dependent culturally significant sites.
- (3) For the purpose of subclause (2) (d), the Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance will result in no greater impact on these water sources and their groundwater dependent culturally significant sites.

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

- (1) Subject to subclauses (2) and (3), a water supply work that is located within a restricted distance specified in clauses 53 – 56 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.
- (2) Subject to subclause (3), a water supply work that becomes located within a restricted distance specified in clauses 53 – 56 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 the share components of the access licences nominating that water supply work at the date of the amendment.
- (3) Subclauses (1) and (2) do not apply:
 - (a) where a restricted distance does not apply in accordance with clause 53 (2) (a), (c) and (d), 54 (3), 55 (3) and (4) (a), (b) and (d), and 56 (2) (a), (b) and (d), or
 - (b) the taking of water pursuant to basic landholder rights.
- (4) The Minister may specify a daily rate or an annual volumetric limit for water taken by a water supply work that is located within a restricted distance specified in clauses 53–56 pursuant to clauses 53 (2) (d), 54 (3) (a), 55 (3) or (4) (d) or 56 (2) (d).
- (5) The daily rate or annual volumetric limit specified under subclause (4) will be as determined by the Minister to meet the relevant criteria specified in clauses 53 (2) (d), 54 (3) (a), 55 (3) or (4) (d), or 56 (2) (d).

[59] Clause 60

Omit the clause. Insert instead:

60 Assignment of rights dealings

- (1) This clause relates to dealings under section 71Q of the Act in these water sources.
- (2) Dealings under section 71Q of the Act within the same water source are prohibited in these water sources if the dealing involves an assignment of rights from:
 - (a) an access licence with an extraction component that specifies the Castlereagh River Binnaway to Gilgandra Management Zone in the Binnaway to Gilgandra Water Source to an access licence with an extraction component that specifies the Binnaway to Gilgandra Tributaries Management Zone in the Binnaway to Gilgandra Water Source,
 - (b) an access licence with an extraction component that specifies the Binnaway to Gilgandra Tributaries Management Zone in the Binnaway to Gilgandra Water Source to an access licence with an extraction component that specifies the Castlereagh River Binnaway to Gilgandra Management Zone in the Binnaway to Gilgandra Water Source,
 - (c) an access licence with an extraction component that specifies a management zone in the Castlereagh River above Binnaway Water Source to an access licence with an extraction component that specifies another management zone in the Castlereagh River above Binnaway Water Source, or
 - (d) an access licence that does not nominate a water supply work located on Shawns Creek in the Castlereagh River above Binnaway Water Source to an access licence that does nominate a water supply work located on Shawns Creek in the Castlereagh River above Binnaway Water Source.
- (3) Dealings under section 71Q of the Act between water sources within the same water management area are prohibited in these water sources.

[60] Clause 62 Amendment of extraction component dealings

Omit “or” from the end of clause 62 (2) (a).

[61] Clause 62 (2) (b)

Insert “, or” at the end of clause 62 (2) (b).

[62] Clause 62 (2) (c)

Insert after paragraph (b):

- (c) an access licence with an extraction component that specifies a management zone in the Castlereagh River above Binnaway Water Source being varied to specify another management zone in the Castlereagh River above Binnaway Water Source.

[63] Clause 63 Assignment of water allocation dealings

Omit clause 63 (2) (c). Insert instead:

- (c) from an unregulated river (special additional high flow) access licence to an access licence of another category,
- (d) an access licence with an extraction component that specifies a management zone in the Castlereagh River above Binnaway Water Source to an access licence with an extraction component that specifies another management zone in the Castlereagh River above Binnaway Water Source, or
- (e) an access licence that does not nominate a water supply work located on Shawns Creek in the Castlereagh River above Binnaway Water Source to an access licence that does nominate a water supply work located on Shawns Creek in the Castlereagh River above Binnaway Water Source.

[64] Clause 63 (3)

Insert “in these water sources” after “prohibited”.

[65] Clause 65 Nomination of water supply works dealings

Omit subclauses (2), (3) and (4). Insert instead:

- (2) Dealings under section 71W of the Act are prohibited if the dealing involves:
 - (a) an access licence being amended to nominate a water supply work located in a different management zone to that specified in the extraction component of the access licence, or
 - (b) an access licence that does not nominate a water supply work located in Shawns Creek in the Castlereagh River above Binnaway Water Source being amended to nominate a water supply work located in Shawns Creek in the Castlereagh River above Binnaway Water Source.

- (3) Dealings under section 71W of the Act that involve the nomination of a water supply work located in a State other than NSW, by access licences in these water sources, are prohibited.
- (4) Dealings under section 71W of the Act that involve the nomination of a water supply work in these water sources, by an access licence from a State other than NSW, are prohibited.

[66] Part 11 Mandatory conditions

Insert after the heading:

Note. Part 12 allows for amendments to be made to this Part.

[67] Clause 66

Omit the clause. Insert instead:

66 General

In this Part:

- (a) a requirement to notify the Minister in writing will only be satisfied by writing to the address listed in Appendix 3 of this Plan or to the email address for the Department's Advisory Service, Water Regulation, and

Note. The email address for the Department's Advisory Service, Water Regulation is water.enquiries@dpi.nsw.gov.au.

- (b) a *metered water supply work with a data logger* means a water supply work with:

- (i) a meter that complies with Australian Standard AS 4747, *Meters for non-urban water supply*, as may be updated or replaced from time to time, and
- (ii) a data logger, and

- (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.

Note. *Logbook* is defined in the Dictionary.

[68] Clause 67

Omit the clause. Insert instead:

67 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 1 of Part 8 of this Plan,
 - (b) the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan,
 - (c) the holder of the access licence, upon becoming aware of a breach of any conditions, must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm this notification in writing within 7 days of becoming aware of the breach,
 - (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 start and end time during which water was taken under the access licence,
 - (ii) the volume of water taken on each 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 taken on that date was used,
 - (v) for domestic and stock access licences, local water utility access licences and unregulated river access licences with share components that specify one of

- the Castlereagh River Unregulated Water Sources, the volume of water taken in the first three water years of this Plan compared to the volume of water permitted to be taken in those years under clause 43 (2),
- (vi) for domestic and stock access licences, local water utility access licences and unregulated river access licences with share components that specify one of the Castlereagh River Unregulated Water Sources, the volume of water taken in any three consecutive water years after the first water year of this Plan by comparison to the volume of water permitted to be taken in those years under clause 43 (3),
 - (vii) for unregulated river (special additional high flow) access licences with share components that specify one of the Castlereagh River Unregulated Water Sources, the volume of water taken in a water year by comparison to the volume of water permitted to be taken in that water year under clauses 43 (4),
 - (viii) for aquifer access licences with a share component that specifies the Castlereagh Alluvial Groundwater Source, the volume of water taken in a water year by comparison to the volume of water permitted to be taken in that water year under clause 44 (2),
 - (ix) any other information required to be recorded in the Logbook under the rules of this Plan,
- (c) the holder of an access licence must produce the Logbook to the Minister for inspection, when requested,
 - (d) the holder of an access licence must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of the access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements of subclause (2).
 - (4) An access licence for an approved EP&A Act development must have mandatory conditions where required to give effect to the rules for the use of water supply works located within the restricted distances specified in clause 57.

[69] Clauses 68 and 69

Omit the clauses. Insert instead:

68 General

(1) Water supply work approvals for water supply works in these water sources must have mandatory conditions where required to give effect to the following:

(a) 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 Standard AS 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 out of the pipe, channel or conduit between the water source and the metering equipment, and

(v) any other requirements as to type, standard or other criteria for the metering equipment specified in the notice,

Note. The Minister may direct a landholder or person to install, replace or properly maintain metering equipment under section 326 of the Act.

(b) if a water supply work is no longer to be used permanently, then the approval holder of that work must decommission that work and provide the Minister with notice in writing that the approval holder intends to decommission the water supply work. This notice must occur at least 90 days prior to the date of commencement of decommissioning,

(c) upon receiving notice of the intention to decommission from the approval holder under paragraph (b), the Minister may, by notice in writing, require the water supply work not to be decommissioned, or the water supply work that be

decommissioned in accordance with other requirements. These requirements may be specified by the Minister in a work plan,

Note. If a notice in writing is required from the Minister regarding the decommissioning of a water supply work, this notice will be sent to the approval holder within 60 days of the notice under paragraph (b) being sent.

- (d) if the approval holder receives a notice from the Minister under paragraph (c) the approval holder must proceed with decommissioning the water supply work in accordance with any requirements in that notice,
 - (e) if the approval holder does not receive a notice from the Minister under paragraph (c) within 60 days of providing notice of the intent to decommission under paragraph (b), the approval holder must decommission the water supply work,
 - (f) within 60 days of the water supply work being decommissioned under paragraphs (d) or (e), the approval holder must notify the Minister in writing that the water supply work has been decommissioned and provide the name of the driller who decommissioned the work,
 - (g) the authority to construct a water supply work under a water supply work approval will expire if the construction of that water supply work is not completed within three years of the issue of the water supply work approval,
 - (h) 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, or is used for the purpose of taking water under basic landholder rights only, 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 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,
 - (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,
 - (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 of subclause (2).
 - (4) All water supply work approvals must contain mandatory conditions to require that the water supply work must not be used to take water unless, before water is taken, the holder of the water supply work approval confirms that the relevant cease to take conditions do not apply. Where the holder is required to keep a Logbook, the holder must record that confirmation and the means of confirmation (such as visual inspection or internet search), in the Logbook.

- (5) Water supply work approvals for runoff harvesting dams and in-river dams must have a mandatory condition where required to give effect to clause 50 (2).

69 Water supply works used to take water from the Castlereagh Alluvial Groundwater Source

- (1) This clause applies to all water supply work approvals for water supply works that may be used to take water contained within the Castlereagh Alluvial Groundwater Source.
- (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 referred to in clause 57,
 - (b) the approval holder must ensure the water supply work is constructed so as to be:
 - (i) screened in the groundwater source specified in the share component of the access licence that nominates the work, and
 - (ii) sealed off from all other water sources,
 - (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 53–56,
 - (ii) comply with the construction standards for that type of bore in the *Minimum Construction Requirements for Water Bores in Australia*,
Note. *Minimum Construction Requirements for Water Bores in Australia* is defined in the Dictionary.
 - (iii) be constructed 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) if a water supply work is no longer to be used permanently, then the approval holder of that work must decommission that work and provide the Minister with notice in writing that the approval holder intends to decommission the water supply

work. This notice must occur at least 90 days prior to the date of commencement of decommissioning and include a work plan for decommissioning in accordance with the Minimum Construction Requirements for Water Bores in Australia,

- (e) upon receiving notice of the intention to decommission from the approval holder under paragraph (d), the Minister may, by notice in writing, require that the water supply work not be decommissioned, or that the water supply work be decommissioned in accordance with other requirements,

Note. If a notice in writing is required from the Minister regarding the decommissioning of a water supply work, this notice will be sent to the approval holder within 60 days of the notice under paragraph (d) being sent.

- (f) if the approval holder receives a notice from the Minister under paragraph (e) the approval holder must proceed with decommissioning the water supply work in accordance with any requirements in that notice,
- (g) if the approval holder does not receive a notice from the Minister under paragraph (e) within 60 days of providing notice of the intent to decommission under paragraph (d), the approval holder must decommission the water supply work in accordance with the work plan,
- (h) within 60 days of the water supply work being decommissioned under paragraphs (f) or (g), the approval holder must notify the Minister in writing that the water supply work has been decommissioned and provide the name of the driller who decommissioned the work,
- (i) the authority to construct a water supply work under a water supply work approval will expire if the construction of that water supply work is not completed within three years of the issue of the water supply work approval,
- (j) the approval holder must, within sixty days of completion of the construction of the water supply work or within sixty days after the issue of the water supply work approval if the approval is for the amendment of an existing water supply work, submit the details of the water supply work to the Department in a form approved by the Minister,
- (k) if, during the construction of the water supply work, contaminated water is encountered above the production aquifer, the approval holder must:

- (i) notify the Minister within 48 hours of becoming aware of the contaminated water,
 - (ii) take all reasonable steps to minimise contamination and environmental harm,
 - (iii) ensure that such water is sealed off by inserting casing to a depth sufficient to exclude the contaminated water from the water supply work and, if specified by the Minister, place an impermeable seal between the casing and the walls of the water supply work from the bottom of the casing to ground level as specified by the Minister, and
 - (iv) if the Minister has specified any other requirements, comply with any requirements specified by the Minister in writing,
- (l) 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,
 - (m) the authority to construct a water supply work under a water supply work approval will expire if the construction of that water supply work is not completed within three years of the issue of the water supply work approval, and
 - (n) any other conditions required to implement the provisions of this Plan.
- (3) A water supply work approval granted in circumstances where clause 53 (2) (d) applies must have a mandatory condition where required to give effect to clause 53 (4).
 - (4) A water supply work approval for a water supply work must have mandatory conditions where required to give effect to the requirements for a replacement groundwater work specified in or specified by the Minister in accordance with clause 52.

[70] Clause 70 General

Omit clause 70 (2) (except the Note). Insert instead (retaining the Note):

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

[71] Clause 71 Part 1

Omit clause 71 (a). Insert instead:

- (a) apply this Plan to new or additional water sources or water management areas (including part thereof), or to modify (including to amend the boundaries) or remove an existing water source or water management area (including part thereof) from this Plan,

[72] Clause 72 Part 4

Insert “in the Castlereagh Alluvial Groundwater Source” after “water”:

[73] Clauses 73 and 74

Omit clauses 73 and 74. Insert instead:

73 Part 6

- (1) Following the surrender under section 77 of the Act of an access licence and then the cancellation under section 77A (6) of the Act of an access licence in one of these water sources, the Minister may amend clause 28 to vary the long-term average annual extraction limit that applies to the EMU or that water source.
- (2) Part 6 may be amended to modify the long-term average annual extraction limit for the Castlereagh Alluvial Groundwater Source as a result of recharge studies undertaken or assessed as adequate by the Minister.
- (3) Clause 38 may be amended to specify that reductions to available water determinations for unregulated river (special additional high flow) access licences may be made prior to, or at a rate greater than, reductions for unregulated river access licences.

74 Part 8

Division 2 of Part 8 of this Plan may be amended to do any of the following:

- (a) establish new or additional flow classes in any water source where management zones are added or in any water source or management zone that is amended during the term of this Plan, as specified in clause 71, provided that the Minister is satisfied that the amendment will not have significant adverse impact on the access to water of licence holders in that affected water source or management zone,
- (b) amend clause 46:
 - (i) in relation to the exclusion of aquifer interference approvals,

- (ii) to specify alternate access rules for lagoons, lakes, in-river pools and other lentic water bodies,
 - (iii) after Year 3 of this Plan, to specify an alternate access rule based on visible flow at the location of one or more remote cameras for water taken under an access licence that nominates a water supply work in the Castlereagh River Binnaway to Gilgandra Management Zone of the Binnaway to Gilgandra Water Source or the Castlereagh River Gilgandra to Coonamble Water Source, or
 - (iv) to extend the exemption to the cease to take conditions for stock watering purposes specified in clause 46 (7) (c) beyond Year 5 of this Plan and/or modify the volume of water permitted to be taken for stock watering purposes after Year 5 of this Plan,
- (c) establish or assign new TDELS in these water sources or management zones following the imposition of an adaptive environmental water condition on an access licence that requires the water to be left in the water source or management zone for environmental purposes,
 - (d) establish or assign new TDELS in these water sources or management zones, to protect a proportion of the flow within each flow class for the environment,
 - (e) amend or remove TDELS if TDELS have been established or assigned,
 - (f) include rules for the establishment, assignment and removal of IDELS,
 - (g) remove the existing access rules where TDELS and/or IDELS have been established under paragraphs (c), (d) or (f) to protect a proportion of the flow within each flow class for the environment, or
 - (h) reinstate access rules that applied at the commencement of this Plan, where TDELS and IDELS have been removed under paragraphs (e) and (f).

[74] Clause 75 Part 9

Omit paragraph (b) - (d). Insert instead:

- (b) amend the definition of a replacement groundwater work in clause 52,
- (c) add, remove or modify a restricted distance specified in:

- (i) clause 53 after Year 5 of this Plan, or
- (ii) clause 55 based on the outcomes of further studies of groundwater dependent ecosystems that are to the Minister's satisfaction, or
- (d) amend clause 57 to impose further restrictions on the rate and timing of extraction of water to mitigate impacts.

[75] Clause 76 Part 11

Omit paragraph (b). Insert instead:

- (b) amend clause 68 or 69 to specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works.

[76] Clause 77 Schedules

Delete "and/" after "modify" in subclause (1).

[77] Clause 77 (1A)

Insert after subclause (1):

- (1A) Schedule 1A may be deleted if the Minister is satisfied that it is no longer required.

[78] Clause 77 (2) (d)

Delete "." From the end of paragraph (d). Insert instead ":",

[79] Clause 77 (2) (d)

Insert after paragraph (d):

- (i) 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, or
- (ii) the access licence is surrendered or cancelled or the purpose ceases to exist.

[80] Clause 77 (3A)

Insert after clause (3):

- (3A) Schedule 2A may be amended to do any of the following:

- (a) add a new access licence to clause 1 of Schedule 2A, provided that a written request has been made to the Minister and the Minister is satisfied that extraction under the access licence is for a purpose listed in clause 46B (5) and that purpose was specified on or referred to in the conditions of the former *Water Act 1912* entitlement that was replaced by the access licence or referred to in its conditions,

- (b) add a local water utility access licence or an access licence of the subcategory “Town water supply” to clause 2 of Schedule 2A, 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,
- (c) remove a local water utility access licence or an access licence of the subcategory “Town water supply” from Schedule 2A if:
 - (i) an access licence dealing results in water being taken under the licence from a different location,
 - (ii) an alternative water supply is obtained, or
 - (iii) the licence is surrendered or cancelled or its purpose ceases to exist,
- (d) remove a local water utility or an unregulated river (subcategory “Town water supply”) access licence or former *Water Act 1912* entitlement from clause 2 of Schedule 2A if:
 - (i) 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, or
 - (ii) the access licence is surrendered or cancelled or the purpose ceases to exist.

(3B) Schedule 2A or part thereof may be repealed, if the Minister is satisfied that it is no longer required.

[81] Clause 78 Other

Insert after clause 78 (1) (b):

Note. *Shepherding* is defined in the Dictionary.

[82] Clause 78 (1) (e)

Omit “or” at end of the paragraph.

[83] Clause 78 (1) (f)

Omit “.” after paragraph. Insert instead “, or”.

[84] Clause 78 (1) (g)

Insert after paragraph (1) (f):

- (g) the management of salt interception schemes.

[85] Clause 78 (5)

Insert after subclause:

- (6) Any amendment under subclause (4) will take into account the socio-economic impacts of the proposed change and the environmental water requirements of the water source.
- (7) Before making an amendment pursuant to subclause (4) the Minister should consult with relevant Government agencies and stakeholders.

[86] Schedule 1 Dictionary

Omit “under section 4 of” from the definition of *Aboriginal person*. Insert instead “it has in”.

[87] 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.

[88] 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 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.

[89] Schedule 1

Insert the following in alphabetical order:

approved EP&A Act development means:

- (a) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (whether before or after its repeal), or
- (b) State significant development authorised by a development consent under Part 4 of that Act, or
- (c) State significant infrastructure approved under Part 5.1 of that Act.

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.

full capacity means the volume of water that is impounded in the pool, lagoon or lake when the pool, lagoon or lake is at the level when a visible flow out of that pool, lagoon or lake would cease.

high environmental value areas means national parks, nature reserves, historic sites, Aboriginal areas, state conservation areas and karst conservation areas.

infrastructure includes:

- (a) flow gauging devices or any other device that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) a flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within these water sources.

in-river pool means a natural pool, lagoon or lake that is within a river or stream (regardless of stream size) and excludes:

- (a) a pool that is on a flood-runner or floodplain, or
- (b) a pool that is on an effluent that only commences to flow during high flows.

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.

off-river pool means a natural pool, lagoon or lake that is:

- (a) not within a river or stream (regardless of stream size),
- (b) located on a flood-runner or floodplain, or
- (c) located on an effluent that only commences to flow during high flows.

Year 3 of this Plan means from the date of 1 July 2013 to 30 June 2014.

Year 5 of this Plan means from the date of 1 July 2015 to 30 June 2016.

[90] Schedule 1

Omit the definitions of *full containment volume*, *Registered Map*, *replacement groundwater work*, and *water year*.

[91] Schedule 1A

Insert after Schedule 1:

Schedule 1A Access licences subject to the cease to take condition specified in clause 46 (5) of this Plan

The access licences listed in Column A of the table below, which have share components that specify the water sources listed in Column B of the table below, will have the access rule condition specified in Column C imposed as mandatory conditions to give effect to clause 46 (5).

Column A Access licence	Column B Water source	Column C Access rules
31151	Castlereagh below Coonamble Water Source	Water must not be taken when the flow of water in the Castlereagh River at the Carinda-Walgett Road bridge is

		<p>2.43 metres or more below the decking of said bridge, unless:</p> <p>(a) the level of the flow of water in the Castlereagh River at the Carinda-Walgett Road bridge is equal to or greater than 200 megalitres per day;</p> <p>and</p> <p>(b) application has been made and approval to take water obtained from the Department's Dubbo office.</p>
31149	Castlereagh below Coonamble Water Source	<p>Water must not be taken when the flow of water in the Castlereagh River at the Carinda-Walgett Road bridge is 2.43 metres or more below the decking of said bridge, unless:</p> <p>(a) the level of the flow of water in the Castlereagh River at the Carinda-Walgett Road bridge is equal to or greater than 200 megalitres per day ;</p> <p>and</p> <p>(b) application has been made and approval to take water obtained from the Department's Dubbo office.</p>
27356	Nedgera Creek Water Source	<p>Water must not be taken unless a flow is present in Garrawilla Watercourse equivalent to a depth of 75 millimetres over the concrete causeway on the Merri Merri Road, located within Portion 31, Parish of Yarrayin, County of Leichhardt.</p>

[92] Schedule 2A

Insert after Schedule 2:

Schedule 2A Access licences used to take surface water exempt from cease to pump rules in the Castlereagh River above Binnaway Water Source

1 General

This clause applies to each access licence listed in the table below.

Access licences

2 Local water utility access licences and access licences of the subcategory “Town water supply”

This clause applies to each access licence listed in the table below.

Local water utility access licences or access licences of the subcategory “Town water supply”

[93] Schedule 3

Omit the schedule. Insert instead:

Schedule 3 Access rule for licences subject to clause 46 (4)

The access licences listed in Column A of the table below, which have share components that specify the water sources listed in Column B of the table below, will have the access rule condition specified in Column C imposed as mandatory conditions to give effect to clause 46 (4).

Column A Access licence	Column B Water source	Column C Access rules
27265	Castlereagh below Coonamble Water Source	If the rate of extraction is greater than 10 megalitres on any calendar day, water must not be taken on the following calendar day.

[94] Schedule 4 Contamination sources in these water sources

Omit paragraphs (a) to (d). Insert instead:

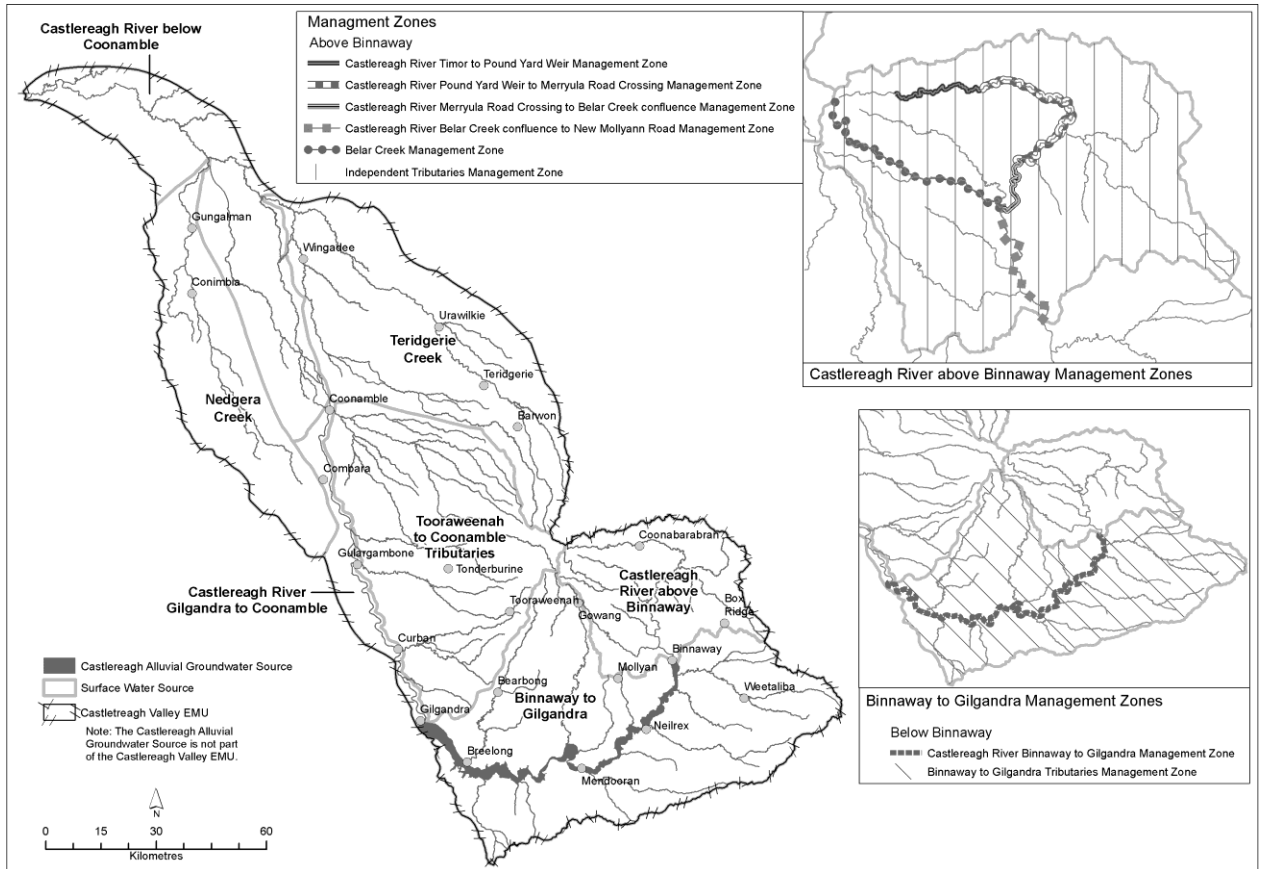
- (a) on-site sewage disposal systems or septic tanks,

- (b) any sites which have been declared to be significantly contaminated land under the *Contaminated Land Management Act 1997*, and
- (c) any sites that are or have been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the *Environmental Planning and Assessment Act 1979* from time to time.

[95] Appendix 1

Omit the Appendix. Insert instead:

Appendix 1 Overview of Plan Map



[96] Appendix 2

Omit the Appendix. Insert instead:

Appendix 2 Inspection of Plan Map

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

DPI Water
10 Valentine Ave
PARRAMATTA NSW 2150

DPI Water
56 Cassilis Street
COONABARABRAN NSW 2357

DPI Water
209 Cobra St
DUBBO NSW 2830

[97] Appendix 3

Omit the Appendix. Insert instead:

Appendix 3 Office

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

DPI Water
209 Cobra St
DUBBO NSW 2830