

Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources Amendment Order 2020

under the

Water Management Act 2000

I, Melinda Pavey, Minister for Water, Property and Housing, in pursuance of section 45 (1) of the *Water Management Act 2000*, make the following Order to amend the *Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011*.

Dated 29th June 2020

Melinda Pavey, MP
Minister for Water, Property and Housing

Explanatory note

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

1 Name of Order

This Order is the *Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources Amendment Order 2020*.

2 Commencement

This Order commences on 1 July 2020.

Schedule 1 Amendment of Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011

[1] Part 1 Introduction

Omit the note. Insert instead:

Notes.

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

2 In accordance with section 48 of the *Water Management Act 2000*, the Minister must take all reasonable steps to give effect to the provisions of this Plan when exercising functions under the Act.

3 In accordance with section 49 of the *Water Management Act 2000*, public authorities must also have regard to the provisions of this Plan to the extent they apply to the public authority.

4 The Minister may amend this Plan at any time under section 45 of the *Water Management Act 2000*, including if satisfied it is in the public interest to do so, or in such circumstances, in relation to such matters and to such extent as Part 12 of this Plan provides.

[2] Clause 1 Name of Plan

Omit “and Alluvial”. Insert instead “River”.

[3] Clause 3 Commencement of this Plan, notes

Insert at the end of the notes:

3 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was amended in 2020, partly to meet NSW commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Intersecting Streams water resource plan area.

4 **Basin Plan** is defined in the Dictionary.

[4] Clause 4

Omit the clause. Insert instead:

4 Application of this Plan

(1) This Plan applies to the following water sources known as the Intersecting Streams Unregulated River Water Sources (hereafter **these water sources**) within the Western Water Management Area:

(a) Mooni River Water Source,

(b) Narran River Water Source,

(c) Culgoa River Water Source,

Note. The Culgoa River Water Source includes the Bokhara River to its confluence with the Barwon River.

(d) Warrego River Water Source,

(e) Paroo River Water Source, and

(f) Yanda Creek Water Source.

Note. The Western Water Management Area was constituted by Ministerial order made under section 11 of the *Water Management Act 2000* published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.

- (2) These water sources are shown on the Plan Map called Plan Map (WSP046_Version 2), *Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources 2011*, (hereafter the **Plan Map**), held by the Department.
Note. The Plan Map is part of this Plan and is available on the NSW legislation website. An overview of the Plan Map is shown in Appendix 1.
- (3) Subject to subclause (5), these water sources include all water:
- (a) occurring naturally on the surface of the ground within the boundaries of these water sources as shown on the Plan Map, and
 - (b) in rivers, lakes and wetlands within the boundaries of these water sources.
- (4) (Repealed)
- (5) These water sources do not include water:
- (a) contained in the Barwon-Darling Unregulated River Water Source to which the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012* applies, or

Note. This Plan, as amended by the *Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Warrego Alluvial Groundwater Source and Paroo Alluvial Groundwater Source. The *Water Sharing Plan for the Darling Alluvial Groundwater Sources 2020* applies to those water sources.

[5] Clause 5 Management zones

Insert at the end of clause 5 (1) (d):

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

[6] Clause 5 (2)

Omit the word ‘Registered’. Insert instead ‘Plan’.

[7] Clause 7 Interpretation

Omit the words ‘the regulation to the Act (hereafter the regulations)’ from subclause (2).
 Insert instead ‘regulations made under the Act’.

[8] Clause 7 (4)

Omit the subclause. Insert instead:

- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (4A) The Plan Map forms part of this Plan.
- (4B) A number in brackets following the name of a gauge is the gauge number.

[9] Part 2

Omit the Part. Insert instead:

Part 2 Vision, objectives, strategies and performance indicators

Notes.

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 This Part describes broad objectives, which are the long term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in this Part are specific outcomes that can be achieved by the strategies in this Plan and

can be directly measured so that success or failure to achieve the objective can be quantified.

7A Acknowledgment

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within the Western Water Management Area.

8 Vision statement

The vision for this Plan is to provide for the following:

- (a) the health and enhancement of these water sources and their water-dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (d) social and cultural benefits to urban and rural communities that depend on surface water.

9 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect, and contribute to the enhancement of, the ecological condition of these water sources and their water-dependent ecosystems over the term of this Plan.

Note. The ecological condition of these water sources will be assessed by reference to the condition of high ecological value aquatic ecosystems, target species, communities, populations and key ecosystem functions as defined in the MER plan for these water sources. Water-dependent ecosystems in these water sources include instream, riparian and floodplain ecosystems.

- (2) The targeted environmental objective of this Plan is to protect, and contribute to the enhancement of, the following over the term of this Plan:

- (a) the recorded distribution or extent, and population structure, of target ecological populations,

Notes.

- 1 **Target ecological populations** is defined in the Dictionary
- 2 Target ecological populations in these water sources may include known or predicted populations of the following:
 - (a) native fish including Murray cod, olive perchlet and silver perch,
 - (b) native vegetation including river red gum, coolibah–black box woodland and wetland communities,
 - (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and vegetation.

3 Ecological communities that are associated with Ramsar and Directory of Important Wetlands Australia (DIWA) listed wetlands, including waterbirds and lignum vegetation, will be monitored under a range of government and academic programs.

4 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

- (b) the longitudinal and lateral connectivity within and between water sources to support target ecological processes,

Notes.

- 1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means

- flows between the river and its anabranches, riparian zones, wetlands and floodplains.
- 2 Target ecological processes in these water sources include fish movement across significant barriers, as identified by NSW Department of Primary Industries (Fisheries) and described in the MER plan for these water sources.
 - 3 Connectivity may be within or between water sources in this Plan, or between water sources in this Plan and the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012*.
 - 4 Connectivity may be between water sources in this Plan and connected water sources in Queensland, where an intergovernmental agreement between the New South Wales and Queensland governments has been made to shepherd water for environmental benefits.
 - 5 Connectivity includes flows into and out of significant wetlands, including Ramsar and DIWA listed wetlands, including Narran Lakes, Nocoleche Nature Reserve, Paroo-Darling National Park and Yantabulla Swamp.
- (c) water quality within target ranges for these water sources to support water-dependent ecosystems and ecosystem functions.
Note. Water quality target ranges for these water sources are defined in the Water Quality Management Plan for the Intersecting Streams Water Resource Plan Area SW13 and NSW State Water Quality Assessment and Monitoring Plan.
- (3) The strategies for reaching the targeted environmental objective of this Plan are as follows:
- (a) establish and maintain compliance with a long-term average annual extraction limit and a long-term average sustainable diversion limit,
Note. Part 6 of this Plan sets out the provisions for maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit.
 - (b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
Notes.
 - 1 **Flow regimes** is defined in the Dictionary.
 - 2 The provisions in Division 2 of Part 8 of this Plan establish flow classes that manage the take of water.
 - (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full containment volume,
Notes.
 - 1 **In-river pool** and **off-river pool** are defined in the Dictionary.
 - 2 The provisions in clause 46 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full containment volume.
 - (d) restrict or prevent water supply work approvals within the Paroo River and its tributaries in the Paroo River Water Source,
Note. The provisions in Part 9 of this Plan prevent the granting or amendment of a water supply work approval in the Paroo River and its tributaries in the Paroo River Water Source.
 - (e) reserve a portion of flows to maintain hydrological connectivity between these water sources and other connected water sources.
Note. The provisions in clauses 45 and 46 of this Plan ensure that very low flows are protected from extraction.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted environmental objectives in subclause (2) are the changes or trends in ecological condition during the term of this Plan, as assessed using one or more of the following:
 - (a) the recorded range, extent or condition of target ecological populations,
 - (b) measurements of fish movements through priority fish passage areas,
 - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
 - (d) the extent to which external influences on these water sources during the term of this Plan have affected progress toward achieving the environmental objectives.
Note. External influences may include climate trends, land use patterns and other factors.

10 Economic objectives

- (1) The broad economic objective of this Plan is to maintain, and where possible improve, access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.
- (2) The targeted economic objectives of this Plan are as follows:
 - (a) to maintain, and where possible improve, water trading opportunities for surface water-dependent businesses,
Note. Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.
 - (b) to maintain, and where possible improve, access to water for agriculture, surface water-dependent businesses and landholders,
 - (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows:
 - (a) provide for trade of water allocations and share components subject to environmental constraints.
Note. The provisions in Part 10 of this Plan permit a variety of dealings within environmental constraints, including assignment of rights under access licences and assignment of water allocations between access licences.
 - (b) provide a stable and predictable framework for sharing water among water users,
Note. The compliance with extraction and diversion limit provisions in Division 4 of Part 6 of this Plan and the flow class and access provisions in

Division 2 of Part 8 of this Plan provide certainty in how water access will be shared between different categories of access licences.

- (c) provide flexibility of access to water,
Note. The individual account management provisions in clause 42 of this Plan, including the limit on the volume of water that can be taken in any water year or over three consecutive water years and the amount of water that may be carried over from one water year to the next, provide flexibility that reflects the characteristics of the licence category.
- (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit.
Note. Part 6 of this Plan manages the extraction of water within the long-term average annual extraction limits and the long-term average sustainable diversion limits.

(4) The performance indicator used to measure the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.

(5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan, as assessed using one or more of the following:

- (a) the economic benefits of water extraction and use,
- (b) the economic benefits of water trading as demonstrated by:
 - (i) the annual number or volume of share components of access licences transferred or assigned,
 - (ii) the weighted average unit price of share components of access licences transferred or assigned,
Note. *Weighted average unit* price is defined in the Dictionary.
 - (iii) the annual volume of water allocations assigned,
 - (iv) the weighted average unit price of water allocations assigned,
- (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH and dissolved oxygen.

(6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause the following will be relevant:

- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
- (b) the extent to which the changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
- (c) the extent to which the strategies in subclause (3) support achievement of the economic objectives,
- (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress toward achieving the economic objectives.

Note. External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances, climate or changes in policy or regulation.

11 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) to provide access to water in the exercise of native title rights,
 - (b) to provide access to water for Aboriginal cultural use, including fishing,
 - (c) to protect, and where possible improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
 - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) manage access to water consistently with the exercise of native title rights,
 - (b) provide for water associated with Aboriginal cultural values and uses,
Note. The provisions in Part 7 of this Plan provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory 'Aboriginal cultural'.
 - (c) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (d) restrict the take of water from in-river and off-river pools when the volume of that water is less than full containment volume,
Note. The provisions in clause 46 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full containment volume, thereby contributing to the protection of native fish populations, swimming and recreational areas and riparian vegetation.
 - (e) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.
Note. The provisions in clauses 45 and 46 of this Plan ensure that a portion of natural flows are protected from extraction.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan as assessed using one or more of the following:
 - (a) the use of water by Aboriginal people by measuring factors including:
 - (i) the extent to which native title rights are capable of being exercised, consistently with any determination of native title or indigenous land use agreement,
 - (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,
 - (b) the recorded range or extent of target populations of native fish,
 - (c) the recorded range or condition of target populations of riparian vegetation,
 - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.

- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
 - (d) the water made available for Aboriginal cultural values and uses during the term of this Plan through available water determinations and the granting of new access licences,
 - (e) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress toward achieving the Aboriginal cultural objectives.

Note. External influences may include trends in Aboriginal cultural activity, urban, agricultural and industrial development, climate or changes in policy or regulation.

11A Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to provide access to surface water to support surface water-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are to maintain, and where possible improve the following:
 - (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
 - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing,
 - (c) water quality within target ranges for basic landholder rights, town water supply, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
 - (a) provide access to water for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
 - (b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full containment volume,
 - (d) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objectives.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan as assessed using one or more of the following:
 - (a) the social and cultural uses of water during the term of this Plan, by measuring factors including:

- (i) the extent to which basic landholder rights and licensed domestic and stock requirements have been met, and
 - (ii) the extent to which major utility access licence and local water utility access licence requirements have been met,
 - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,
 - (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
 - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
 - (d) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress toward achieving the social and cultural objectives.

Note. External influences may include trends in urban, agricultural and industrial development, social or cultural behaviour, climate, or changes in policy or regulation.

[10] Clause 12 Bulk access regime

Omit the words 'Division 1 of' from subclause (2) (a).

[11] Clause 12 (2) (b)

Omit the words 'to be made contained in Division 2 of'. Insert instead 'are to be made contained in'

[12] Clause 12 (2) (d)

Omit the words ', contained in Division 1 of'. Insert instead 'and the long-term average sustainable diversion limit contained in'.

[13] Clause 13

Omit the clause. Insert instead:

13 Climatic variability

This Plan recognises the effects of climatic variability on river flow in these water sources by having provisions that:

- (a) manage the sharing of water within the limits of water availability on a long-term average annual basis and the priorities according to which water allocations are to be adjusted as a consequence of any reductions in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit and long-term average annual sustainable diversion limit contained in Part 6 of this Plan, and
- (b) manage the sharing of water in specified water sources on a daily basis, contained in Division 2 of Part 8 of this Plan.

Note. Other statutory tools are available to manage for climatic variability within a water source, for example, temporary water restrictions under section 324 of the Act.

[14] Part 4 Planned environmental water provisions

Omit the notes. Insert instead:

Note. This Part is made in accordance with section 8 of the Act.

[15] **Clause 15**

Omit the clause. Insert instead:

15 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water in these water sources in the following ways:

- (a) by reference to the commitment of the physical presence of water in these water sources,
- (b) by reference to the long-term average annual commitment of water as planned environmental water, and
- (c) by reference to the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

[16] **Clause 16**

Omit the clause. Insert instead:

16 Establishment and maintenance of planned environmental water

- (1) This Plan establishes planned environmental water in these water sources as follows:
 - (a) the physical presence of water resulting from the access rules specified in Division 2 of Part 8 of this Plan,
Note. The rules in Division 2 of Part 8 of this Plan set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.
 - (b) the long-term average annual commitment of water as planned environmental water resulting from compliance with the long-term average annual extraction limits and long-term average sustainable diversion limits as specified in Part 6,
 - (c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the provisions in Parts 6 and 8 of this Plan.
- (2) The planned environmental water established under subclause (1) (a) is maintained by the rules specified in Division 2 of Part 8 of this Plan.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6 of this Plan.
- (4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Part 6 and Part 8 of this Plan.
Note. The provisions in Part 6 ensure that there will be water remaining in these water sources over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 6 provide for a reduction in available water determinations when the long-term average annual extraction limit and the long-term average sustainable diversion limit have been assessed to have been exceeded.

[17] **Clause 17 Application**

Omit “Division 1 of” from subclause (3).

[18] **Clause 18 Domestic and stock rights**

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

[19] **Clause 18**
Omit '8.04'. Insert instead '6.73'.

[20] **Clause 18 (e) – (h)**
Omit the paragraphs. Insert instead:

- (e) 2.24 ML/day in the Paroo River Water Source, and
- (f) 1.91 ML/day in the Yanda Creek Water Source.
- (g) (repealed)
- (h) (repealed)

[21] **Clause 19**
Omit the clause. Insert instead:

19 Native title rights

The requirement for water to satisfy native title rights is the water that may be taken in the exercise of native title rights in accordance with the *Native Title Act 1993* of the Commonwealth, including:

- (a) the native title determination for the Barkandji Traditional Owners #8 (Parts A and B, National Native Title Tribunal references NCD2015/001 and NCD2017/00), and
- (b) any other determination of native title, and
- (c) any indigenous land use agreement.

Notes.

- 1 A map of the native title determination area can be viewed by searching the National Native Title Tribunal website at www.nntt.gov.au.
- 2 This Plan may be amended if there is an additional or change to a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 This Plan may be amended if consultation with native title holders identifies more specific requirements for water to satisfy native title rights.
- 4 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

[22] **Part 5, Division 3**
Omit the Division. Insert instead:

Division 3 Requirements for water for extraction under access licences

Notes.

- 1 The share component estimates in this Division include licensed environmental water as defined in section 8 of the Act. The Environmental Water Register maintained by the Department provides a record of licensed environmental water licences, as well as other water intended for environmental purposes.
- 2 As at 1 July 2020, there are four access licences with share components totalling 17,826 unit shares in the Warrego River Water Source that are not identified as licensed environmental water but are intended to be used for environmental purposes. These licences are held by the Commonwealth Government. These access licences are unregulated river access licences and unregulated river (special additional high flow) access licences.

21 Share components of domestic and stock access licences

It is estimated that the share components of domestic and stock access licences authorised to take water from these water sources total 482 ML/year, distributed as follows:

- (a) 16 ML/year in the Mooni River Water Source,
- (b) 39 ML/year in the Narran River Water Source,
- (c) 146.5 ML/year in the Culgoa River Water Source,
- (d) 42.5 ML/year in the Warrego River Water Source,
- (e) 230 ML/year in the Paroo River Water Source, and
- (f) 8 ML/year in the Yanda Creek Water Source.
- (g) (repealed)
- (h) (repealed)

22 Share components of local water utility access licences

It is estimated that the share components of local water utility access licences authorised to take water from these water sources total 221 ML/year, distributed as follows:

- (a) (repealed),
- (b) 221 ML/year in the Paroo River Water Source, and
- (c) 0 ML/year in all other water sources.

23 Share components of unregulated river access licences

It is estimated that the share components of unregulated river access licences authorised to take water from these water sources total 23,083 unit shares, distributed as follows:

- (a) 1,047 unit shares in the Mooni River Water Source,
- (b) 8,834 unit shares in the Narran River Water Source,
- (c) 2,979 unit shares in the Culgoa River Water Source,
- (d) 9,432 unit shares in the Warrego River Water Source,
- (e) 791 unit shares in the Paroo River Water Source, and
- (f) 0 unit shares in the Yanda Creek Water Source.

24 Share components of unregulated river (special additional high flow) access licences

It is estimated that the share components of unregulated river (special additional high flow) access licences authorised to take water from these water sources total 12,150 unit shares, distributed as follows:

- (a) 12,150 unit shares in the Warrego River Water Source, and
- (b) 0 unit shares in all other water sources.

25 (Repealed)

[23] Part 6

Omit the Part. Insert instead:

Part 6 Limits to the availability of water

Note. This Part sets out the rules for managing the availability of water for extraction in accordance with the following long-term limits on extraction:

- (a) a long-term average annual extraction limit for each water source,
- (b) a long-term average sustainable diversion limit.

Division 1 Calculations under this Part

26 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following:
 - (a) the long-term average annual extraction limits under clause 27,
 - (b) the annual extraction under clause 28,
 - (c) the annual permitted take under clause 29B,
 - (d) the annual actual take under clause 29B.

Note. *Annual permitted take* and *annual actual take* are defined in the Dictionary.

- (2) The calculations by the Minister to which this clause applies must:
- (a) exclude the following:
 - (i) allocations assigned from an access licence in one of these water sources to an access licence in a water source other than these water sources, under section 71T of the Act,
 - (ii) in relation to annual extraction under clause 31 only, water committed as licensed environmental water under section 8F of the Act, and
 - (b) include allocations assigned to an access licence in one of these water sources from an access licence in a water source other than these water sources, under section 71T of the Act.
- (3) The calculation by the Minister of the long-term average annual extraction limits under clause 27 must be adjusted by a volume that appropriately reflects the following:
- (a) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act,
 - (b) any changes to the amount of water committed as licensed environmental water under section 8F of the Act.

Division 2 Long-term average annual extraction limits

27 Calculation of the long-term average annual extraction limits

The long-term average annual extraction limit for each of the water sources to which this Plan applies is the sum of:

- (a) the estimated 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 respective water source, plus
- (b) the estimated annual water requirements pursuant to basic landholder rights in the respective water source at the commencement of this Plan, plus
- (c) the estimated annual take of water from the respective water source by plantation forestry that existed on 30 June 2009.

Note. *Plantation forestry* is defined in the Dictionary.

28 Calculation of annual extraction

Following the end of each water year, the Minister is to calculate the total annual extraction from each of the water sources to which this Plan applies based on the following:

- (a) the take of water by basic landholder rights and access licences in that water year,
- (b) the estimated take of water by plantation forestry in that water year.

29 Assessment of compliance with the long-term average annual extraction limits

- (1) Following the calculation under clause 28, the Minister is to compare the average of the total annual extraction for each of the water sources to which this Plan applies over the preceding five water years against the respective long-term average annual extraction limit.
- (2) There is non-compliance with a long-term average annual extraction limit if the average of the total annual extraction over the preceding five water years exceeds the long-term average annual extraction limit by 5% or more.

Division 3 Long-term average sustainable diversion limit

Note. *Intersecting Streams SDL* resource unit is defined in the Dictionary.

29A Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for the water sources to which this Plan applies is:
 - (a) the baseline diversion limit for the Intersecting Streams SDL resource unit as calculated in accordance with Schedule 3 of the Basin Plan, minus
 - (b) the shared reduction amount for the Intersecting Streams SDL resource unit as determined in accordance with section 6.05 of the Basin Plan.
- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

Note. *Baseline diversion limit* is defined in the Dictionary.

29B Calculation of annual permitted and annual actual take for the water year

- (1) Following the end of each water year, the Minister is to calculate the annual permitted take and annual actual take of water for the previous water year in the water sources to which this Plan applies in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to the water sources.

Notes.

- 1 Under the Basin Plan take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation as they fall outside the definition of take for consumptive use.
- 2 *Consumptive use* and *take* are defined in section 4 of the *Water Act 2007* of the Commonwealth.

29C Assessment of compliance with the long-term average sustainable diversion limit

- (1) Following the calculation under clause 29B after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

30 (Repealed)

Division 4 Compliance with extraction and diversion limits

31 Action following non-compliance

- (1) Subject to subclause (2) to (4), if an assessment under clauses 29 or 29C demonstrates non-compliance with either a long-term average annual extraction limit for a water source or the long-term average sustainable diversion limit, the Minister is to take one or both of the following actions for the water year after the assessment:
 - (a) make available water determinations for unregulated river access licences of less than 1 ML per unit share,
 - (b) make available water determinations for unregulated river (special additional high flow) access licences of less than 1 ML per unit share.
- (2) The Minister may take one or both of the actions specified in subclause (1) (a) and (1) (b) if an assessment under clause 29C would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

- (3) An action taken in accordance with subclause (1) and (2) is to be taken to the extent to which, and only for as long as, the Minister considers the following is necessary:
- (a) in the case of non-compliance with a long-term average annual extraction limit— to return average annual extraction in the water source to the respective long-term average annual extraction limit, or
 - (b) in the case of non-compliance with the long-term average sustainable diversion limit— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
 - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) An action taken in accordance with subclause (1) and (2) to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan is to only apply to a water source to the extent to which extractions from the water source:
- (a) have caused non-compliance with the long-term average sustainable diversion limit, or
 - (b) would have caused non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse.

32 (Repealed)

Division 5 Available water determinations

33 General

- (1) Available water determinations for access licences with share components that specify any one of these water sources are to be expressed as either:
- (a) a percentage of the share component for access licences where share components are specified as ML/year, or
 - (b) megalitres per unit share for access licences where share components are specified as a number of unit shares.
- (2) The sum of available water determinations made for any access licence with a share component that specifies one of these water sources must not, in any water year, exceed:
- (a) 100% of the access licence share component for all access licences where share components are specified as ML/year, or
 - (b) 1 megalitre per unit share of the access licence share component for all access licences, where share components are specified as a number of unit shares.
- (3) (Repealed)

34 Available water determinations for domestic and stock access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for domestic and stock access licences.

35 Available water determinations for local water utility access licences

Unless the Minister otherwise determines, at the commencement of each water year, an available water determination of 100% of the access licence share component is to be made for local water utility access licences.

36 Available water determinations for unregulated river access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 1 ML per unit of access licence share component or such lower amount that is determined in accordance with clause 31 is to be made for unregulated river access licences.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river access licences of less than 1 ML per unit share if there is non-compliance with a long-term average annual extraction limit or the long-term average sustainable diversion limit, or if the long-term average sustainable diversion limit is exceeded but there is a reasonable excuse for this.

37 Available water determinations for unregulated river (special additional high flow) access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 1 ML per unit of access licence share component or such lower amount that is determined in accordance with clause 31 is to be made for unregulated river (special additional high flow) access licences.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river (special additional high flow) access licences of less than 1 ML per unit share if there is non-compliance with a long-term average annual extraction limit or the long-term average sustainable diversion limit, or if the long-term average sustainable diversion limit is exceeded but there is a reasonable excuse for this.

38 (Repealed)

[24] Part 7

Omit the Part. Insert instead:

Part 7 Rules for granting access licences

Notes.

- 1 This Part is made in accordance with sections 20 and 61 of the Act.
- 2 Access licences in these water sources are subject to mandatory conditions and may be subject to discretionary conditions.

39 Specific purpose access licences

Note. Section 61 of the Act allows for the granting of specific purpose access licences under the regulations and the relevant water sharing plan.

- (1) Applications for specific purpose access licences, other than those permitted under the Regulation, may not be made in these water sources.
- (2) A specific purpose access licence must not be granted in these water sources unless the Minister is satisfied that the share and extraction component of the access licence is the minimum required to meet the circumstances in which the access licence is proposed to be used.
- (3) An access licence of the subcategory “Aboriginal cultural” must not be granted in these water sources unless the share component of the proposed access licence is less than or equal to 10 ML/year.
- (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.

40 (Repealed)

[25] Part 8, Division 1 Water allocation account management rules

Insert before clause 41:

Note. The Act and the regulations provide for the keeping of water allocation accounts. The rules in this Division impose further limits on the volume of water that may be taken under an access licence over a specified period of time. These limits are in addition to any other limits on access licences for the taking of water. It is an offence under the Act to take water under an access licence for which there is no or insufficient water allocation.

[26] Clause 41 General

Omit the clause.

[27] Clause 42 Individual access licence account management rules for the Intersecting Streams Unregulated Water Sources

Omit the words ‘for the Intersecting Streams Unregulated Water Sources’ from the clause heading.

[28] Clauses 42 (1), (4) and (6)

Omit the words ‘the Intersecting Streams Unregulated Water Source’. Insert instead ‘these water sources’.

[29] Clauses 42 (3) (a) (iii), (3) (b) (iv) and 4 (b)

Omit the words ‘to or from’. Insert instead ‘to and from’.

[30] Clauses 42 (3) (a) (iii), (3) (b) (iv) and 4 (b)

Insert the words ‘or 71V’ after ‘71T’.

[31] Clause 43 Individual access licence account management rules for the Intersecting Streams Alluvial Groundwater Sources

Omit the clause.

[32] Clause 45 Flow classes

Omit the words ‘the Intersecting Streams Unregulated Water Source’ from subclause (1). Insert instead ‘these water sources’.

[33] Clause 46 Access rules for the taking of surface water

Omit subclause (1). Insert instead:

(1) This clause applies to the taking of water under an access licence from these water sources.

[34] Clause 46 (7)

Insert a note at the end of the subclause:

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

[35] Clause 46 (10) (c)

Omit the paragraph.

[36] Clause 47 Total daily extraction limits

Omit the notes. Insert instead:

Notes.

- 1 TDELS are an assessment tool only and can be used to determine which access licences (if any) may require individual daily extraction limits. If TDELS are established, continued exceedance of a TDEL may result in the imposition of individual daily extraction limits under clause 48.
- 2 Part 12 of this Plan allows for amendments to be made to establish TDELS.
- 3 *Total daily extraction limit* is defined in the Dictionary.

[37] Clause 48 Individual daily extraction limits

Omit the word ‘either’ from subclause (2).

[38] Clause 48 (2)

Omit the note. Insert instead:

Notes.

- 1 Part 12 of this Plan allows for amendments to be made to establish IDELS.
- 2 *Individual daily extraction limit* is defined in the Dictionary.

[39] Part 9, Division 1 Rules applying to water supply works that take surface water

Omit the words ‘that take surface water’ from the Division heading.

[40] Clause 49 General

Omit the words ‘the Intersecting Streams Unregulated Water Source’. Insert instead ‘these water sources’.

[41] Clause 50 Granting water supply work approvals

Omit subclause (1).

[42] Clauses 50 (2) and (3)

Omit ‘it’s’ wherever occurring. Insert instead ‘its’.

[43] Part 9, Division 2 Rules applying to water supply works that take water from the Intersecting Streams Alluvial Groundwater Sources

Omit the Division.

[44] Clause 60 Assignment of rights dealings (with water sources)

Omit the words ‘(with water sources)’ from the clause heading.

[45] Clause 60 (2)

Omit ‘it’s’ wherever occurring. Insert instead ‘its’.

[46] Clause 60 (2)

Omit the word ‘and’ after ‘Paroo River’. Insert instead ‘or’.

[47] Clause 60 (4)

Insert after subclause (3):

- (4) Dealings between water sources under section 71Q of the Act are prohibited in these water sources.

[48] Clause 62 Assignment of water allocations dealings

Omit the words ‘and it’s’ wherever occurring in subclause (2). Insert instead ‘or its’.

[49] Clause 63 Interstate transfer of access licences and assignment of water allocation

Omit subclauses (2) – (3). Insert instead:

- (2) Dealings involving the interstate transfer of an access licence to or from access licences in these water sources are prohibited unless administrative arrangements have been agreed to, and implemented by, NSW and the other State or Territory, and the interstate access licence transfer is made in accordance with these arrangements.
- (3) Dealings involving the interstate assignment of water allocations to or from access licences in these water sources are prohibited unless administrative arrangements have been agreed to, and implemented by, NSW and the other State or Territory, and the interstate assignment of water allocations is made in accordance with these arrangements.

Note. As at 1 July 2020, administrative arrangements are not in place between New South Wales and Queensland. New South Wales will, in collaboration with Queensland, consider introducing a cross border trading framework, if and when demand increases to a level that justifies the investment in administrative resources.

[50] Clause 64 Nomination of water supply works dealings

Omit ‘it’s’ wherever occurring in subclause (2). Insert instead ‘its’.

[51] Clause 64 (2)

Omit the word ‘and’ after Paroo River. Insert instead ‘or’.

[52] Clause 64 (3)

Omit the words ‘by the States’. Insert instead ‘, and implemented by, NSW and the other State or Territory’.

[53] Clause 64 (4)

Omit the subclause. Insert instead:

- (4) A dealing under section 71W of the Act is prohibited if it involves:
 - (a) an access licence being amended to nominate a water supply work located in a different management zone than that specified in the extraction component of the access licence, or
 - (b) an access licence being amended to nominate a water supply work located in a different water source to that specified in the share component of the access licence.

[54] Clause 65 General

Omit paragraph (a). Insert instead:

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to the address listed in Schedule 5 of this Plan or to the email address for enquiries on the Department’s website,

Note. At the commencement of this Plan, the email address for enquiries on the Department’s website is water.enquiries@dpi.nsw.gov.au

[55] Clause 66 General

Omit the words ‘where required’ wherever occurring in subclauses (1) and (2).

[56] Clause 66 (1) (b)

Omit the paragraph. Insert instead:

- (b) the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan,

[57] Clause 66 (2) (b) (v) – (vii)

Omit the subparagraphs. Insert instead:

- (v) (repealed)
- (vi) for domestic and stock access licences, local water utility access licences and unregulated river access licences, the volume of water taken in any three consecutive water years after the first water year in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 42 (3),
- (vii) for unregulated river (special additional high flow) access licences, the volume of water taken in any water year, by comparison to the maximum volume of water permitted to be taken in that water year under clause 42 (4), and

[58] Clauses 66 (4) and (5)

Omit the subclauses. Insert instead:

- (4) If an access licence with a nominated water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the licence.
Note. The *Water Management (General) Regulation 2018* will impose a mandatory condition requiring record keeping on access licences and approvals by 1 December 2021.
- (5) Subclauses (2) - (4) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.
Note. *Mandatory metering equipment condition* is defined in clause 228 of the *Water Management (General) Regulation 2018*.

[59] Clause 67 General

Omit the words ‘where required’ wherever occurring in subclauses (1) and (2).

[60] Clauses 67 (1A) and (1B)

Insert at the end of subclause (1):

- (1A) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (1) (b) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (1B) Subclauses (1) (b) and (1A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.
Note. Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to new works required to have a meter from 1 April 2019, and to other access licences and approvals in these water sources from 1 December 2021

[61] Clauses 67 (2A) and (2B)

Insert at the end of subclause (2):

- (2A) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclause (2) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (2B) Subclause (2) and (2A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

[62] Clause 67 (3)

Omit the words ‘, except those authorising water supply works taking water from the Intersecting Streams Alluvial Groundwater Sources’.

[63] Clauses 67 (4) and (5)

Omit the subclauses. Insert instead:

- (4) A water supply work approval for a runoff harvesting dam or an in-river dam must contain a mandatory condition that requires the approval holder to comply with any direction by the Minister to modify or remove the dam to ensure that the capability of the dam to capture water is reduced to reflect any reduction in share component arising from:
- (a) a dealing under section 71Q or 71W of the Act,
 - (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent 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.
- (5) (Repealed)
- (6) A water supply work approval for a replacement surface water supply work must have mandatory conditions to give effect to the requirements for a replacement surface water supply work specified in clause 50 (3).

[64] Clause 68 Water supply works used to take water from the Intersecting Streams Alluvial Groundwater Sources

Omit the clause.

[65] Clause 70 Part 1

Omit the word ‘registered’ from paragraph (d). Insert instead ‘Plan’.

[66] Clause 71 Part 4

Omit the clause.

[67] Clause 72 Part 6

Omit the clause. Insert instead:

72 Part 6

Clause 37 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.

[68] Clause 73 Part 8

Omit paragraph (b). Insert instead –

- (b) amend clause 46 to specify alternate access rules for lagoons, lakes, in-river pools and other lentic water bodies, and/or

[69] Clause 73 (g)

Omit the words '(f) and/or (h)'. Insert instead '(d) and/or (f)'.

[70] Clause 73 (h)

Omit the words '(g) and (h)'. Insert instead '(e) and (f)'.

[71] Clause 74 Part 9

Omit paragraphs (b) – (d). Insert instead:

- (b) amend the definition of a replacement water supply work in clause 50.

[72] Clause 76

Omit the clause. Insert instead:

76 Part 11

Part 11 may be amended in relation to metering and record keeping including amendments in relation to requirements for Logbooks.

[73] Clause 77

Omit the clause. Insert instead:

77 Schedules

- (1) Schedule 2 may be amended to add, modify and/or remove a definition.
- (2) Schedule 3 may be amended to do any of the following:
 - (a) to add or remove an access licence, or
 - (b) to add, modify and/or remove an access licence condition.
- (3) Schedule 4 may be amended to do any of the following:
 - (a) add a new access licence to clause 1 of Schedule 4, 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 46 (10) (a) 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 4, 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 an access licence or former *Water Act 1912* entitlement from Schedule 4 if:
 - (i) an access licence dealing results in water being taken under the licence being taken from a different location,
 - (ii) an alternative water supply is obtained,

- (iii) the licence is surrendered or cancelled or its purpose ceases to exist,
or
- (d) remove a local water utility access licence or an access licence of the subcategory “town water supply” or former *Water Act 1912* entitlement from clause 2 of Schedule 4 if the Minister is satisfied that the water supply system used to extract, store and deliver water has undergone major augmentation since the commencement of this Plan.

[74] **Clause 78 Other**
Omit paragraph (1) (a).

[75] **Clause 78 (1) (c), note**
Insert after subclause (1) (c):

Note. *Shepherding* is defined in the Dictionary.

[76] **Clause 78 (2)**
Omit the subclause.

[77] **Clause 78 (5)**
Omit the subclause. Insert instead:

- (5) This Plan may be amended to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth.

[78] **Clause 78 (7)**
Insert at the end of subclause (6):

- (7) This Plan may be amended to include or amend access rules for unregulated river access licences so as to protect Active Environmental Water from extraction.

Note. *Active Environmental Water* is defined in the Dictionary.

[79] **Schedule 1 Sections of watercourses to which this Plan does not apply**
Omit the Schedule.

[80] **Schedule 2 Dictionary**
Omit the note to the Schedule. Insert instead:

Note. Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the Regulations have the same meaning in this Plan.

[81] **Schedule 2**
Omit the following terms:

alluvial sediment, drawdown, fractured rock, grazeable area, groundwater dependent ecosystems, high environmental value areas, plantation forestry, porous rock, recharge, registered map, replacement groundwater, slotted intervals and stream order.

[82] **Schedule 2**
Insert the following terms in alphabetical order:

Active Environmental Water means water flowing from a water source that is upstream of these water sources that requires protection from extraction as determined by the Minister.

annual actual take has the same meaning as it has in section 6.10 of the Basin Plan.

annual permitted take has the same meaning as it has in section 6.10 of the Basin Plan.

baseline diversion limit has the same meaning as it has in section 1.07 of the Basin Plan.

Basin Plan means the Basin Plan 2012 made under section 44 (3) (b) (i) of the *Water Act 2007* of the Commonwealth.

flow regimes means, collectively, the magnitude, duration, frequency and patterns of natural flows that characterise a river or water source.

in-river dam means a dam located in a river created by a structure authorised by a water supply work approval.

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 begins to flow during high flows.

Note. In the Dictionary to the Act, a lake is defined to include:

- (a) a wetland, a lagoon, a saltmarsh and any collection of still water, whether perennial or intermittent and whether natural or artificial, and
- (b) any water declared by the regulations to be a lake, whether or not it also forms part of a river or estuary, but does not include any water declared by the regulations not to be a lake.

Intersecting Streams SDL resource unit has the same meaning as provided for in section 6.02 of the Basin Plan.

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.

plantation forestry means a commercial plantation as defined in section 1.07 of the Basin Plan.

target ecological populations means communities of one or more species that are monitored to evaluate the success of targeted objectives for the environment. Populations must be easily monitored (i.e. not rare or cryptic) and may be linked to conservation or other environmental priorities.

target ecological processes means processes that support a range of ecological communities, such as connecting flows or flow events that can mobilise nutrients and other water-borne materials within and between water sources. These processes must be easily monitored and measurable.

weighted average unit price means the total value of all units sold divided by the number of units sold for a monetary value.

[83] **Schedule 2**

Omit 'section 53' from the definition of runoff harvesting dam. Insert instead 'section 54'.

[84] Schedule 5

Omit the Schedule. Insert instead:

Schedule 5 Office

NSW Department of Planning, Industry and Environment - Water
209 Cobra St
DUBBO NSW 2830

[85] Schedule 6 High priority groundwater dependent ecosystems

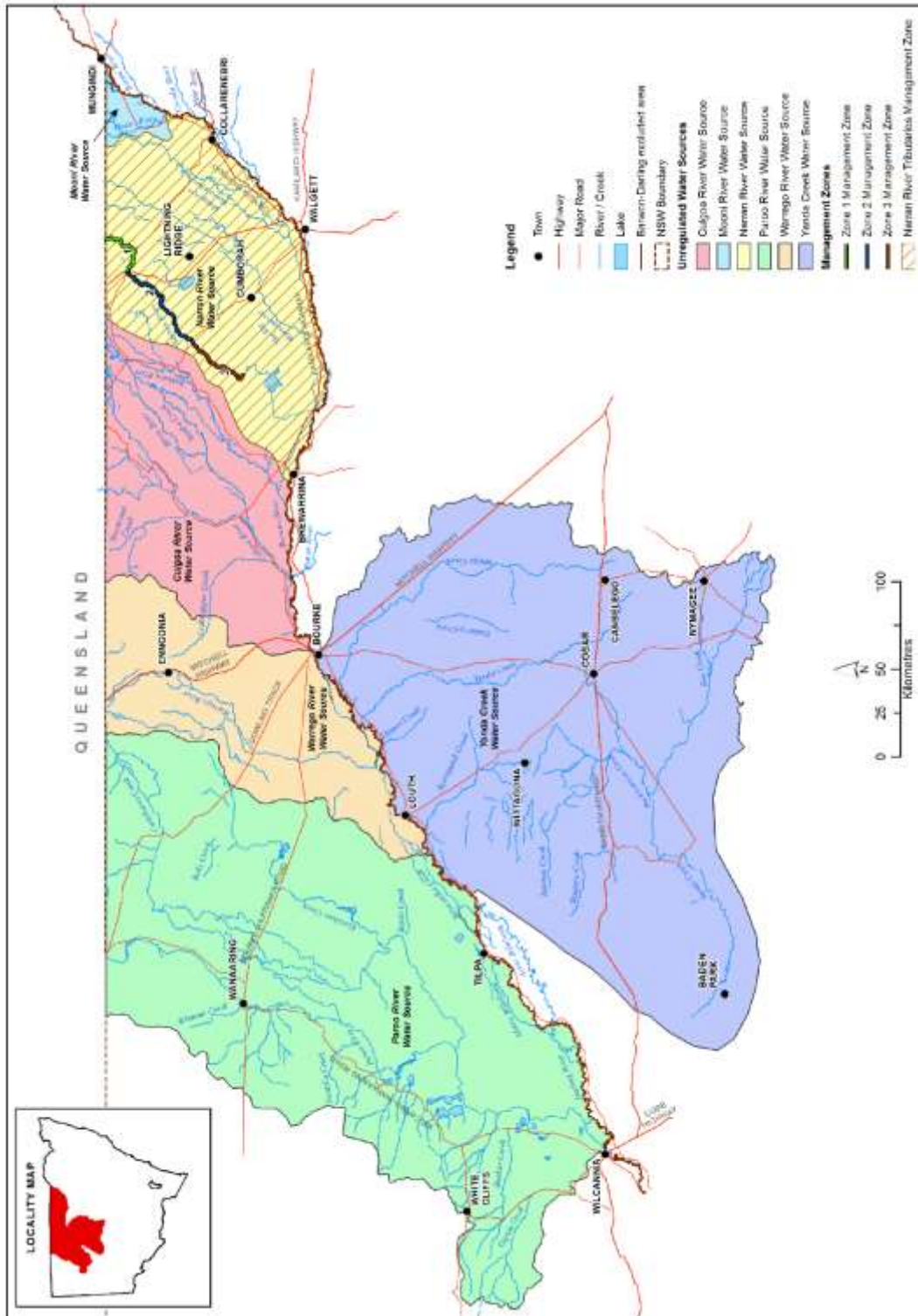
Omit the schedule.

[86] Appendix 1

Omit the Appendix. Insert instead:

Appendix 1 Overview of the Plan Map

Overview of the *Plan Map (WSP046_Version 2), Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources*



Appendix 2 Inspection of Registered Map
Omit the Appendix.