



New South Wales
Government

Water Sharing Plan for the Lachlan Regulated River Water Source Amendment Order 2022

under the

Water Management Act 2000

I, KEVIN ANDERSON MP, Minister for Lands and Water, in pursuance of section 45 (1) of the *Water Management Act 2000*, being satisfied it is in the public interest to do so and that it is necessary to do so because of requirements arising under the *Water Act 2007* of the Commonwealth, make the following Order to amend the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*.

Dated 17 December 2022

KEVIN ANDERSON, MP
Minister for Lands and Water

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 Lachlan Regulated River Water Source 2016*. 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*.

1 Name of Order

This Order is the *Water Sharing Plan for the Lachlan Regulated River Water Source Amendment Order 2022*.

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 Lachlan Regulated River Water Source 2016

[1] Part 1 Introduction

Omit the note. Insert instead—

Notes.

- 1 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.
- 2 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.
- 3 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 provides.

[2] Clause 2 Nature and status of Plan, note

Omit “under”. Insert instead “for the purposes of”.

[3] Clause 3 Commencement

Omit subclause 3(2).

[4] Clause 3, notes

Omit note 2. Insert instead—

- 2 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 2022, partly to meet NSW’s commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Lachlan surface water resource plan area.

[5] Clause 3, notes

Insert after note 2—

- 3 **Basin Plan** is defined in the Dictionary.

[6] Clause 4 Application of Plan

Omit “water source known as the” from subclause 4(1).

[7] Clause 4(1)

Omit “(this water source)”.

[8] Clause 4(1)

Insert “(*the water source*)” after “Area”.

[9] Clause 4(2) and notes

Omit the subclause and notes. Insert instead—

- (2) The water in the water source consists of:
 - (a) the water between the banks of all rivers that have been declared by the Minister to be regulated rivers, from the upper limits of Wyangala Dam water storage downstream to the junction of the Lachlan River with the Murrumbidgee River.

Notes.

- 1 The *Regulated River Order for the Lachlan Regulated River* was made by the Minister and published in the NSW Government Gazette No 92 of 14 September 2012 at page 3955 and then amended as set out in paragraph 26 of Schedule 12 of the Act.
- 2 An overview map of the water source is at Appendix 1.

[10] Clause 5 Understanding the rules in this Plan

Omit the clause. Insert instead—

5 Interpretation

- (1) 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.
- (2) Words and expressions that are defined in the Dictionary to this Plan have the meaning set out in the Dictionary.
- (3) Unless otherwise specified, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (5) A number in brackets following the name of a gauge is the gauge number.
- (6) Notes in the text of this Plan do not form part of this Plan.
- (7) Appendices to this Plan do not form part of this Plan.

[11] Clause 6 Interpretation

Omit the clause.

[12] Part 2 Vision, objectives, strategies and performance indicators

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.

6 Acknowledgement

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

7 Vision statement

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

- (a) the health and enhancement of the water source and its 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.

8 Environmental objectives

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

(2) The targeted environmental objectives of this Plan are as follows:

(a) to protect and contribute to the enhancement of the following over the term of this Plan:

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

Notes.

1 **Target ecological populations** is defined in the Dictionary.

2 Target ecological populations in the water source may include known or predicted populations of the following:

- (a) native fish including golden perch, eel-tailed catfish, Murray cod and olive perchlet,
- (b) native vegetation including river red gum woodland and black box woodland,
- (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and native vegetation.

(ii) 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 the water source include the following:

- (a) carbon and nutrient transport pathways, which are the connected networks of streams, riparian zones, floodplains and wetlands that transport dissolved and suspended organic material and nutrients throughout the water source,
- (b) fish movement across significant barriers.

3 Connectivity may be within the water source, and between the water source and other water sources.

(iii) water quality within target ranges for the water source to support water-dependent ecosystems and ecosystem functions,

Note. Water quality targets for the water source are defined in the Water Quality Management Plan for the Lachlan Water Resource Plan Area SW10.

(b) to support environmental watering in the water source to contribute to maintaining or enhancing ecological condition in streams, riparian zones, dependent wetlands and floodplains.

Note.

1 Division 2 of Part 10 outlines the provisions for environmental water allowances (**EWAs**). These EWAs are managed by the NSW Environmental Water Manager.

2 **EWA** is defined in the Dictionary

(3) The strategies for achieving the targeted environmental objectives of this Plan are as follows:

- (a) maintain compliance with the long-term average annual extraction limit and the 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 share of water to partially mitigate alterations to natural flow regimes in the water source,
Notes.
 - 1 **Flow regimes** is defined in the Dictionary.
 - 2 The provisions in Division 1 of Part 10 partially mitigate the alterations to medium and high flows in the natural flow regimes of the water source.
 - (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between the water sources,
Note. The provisions in Division 1 of Part 10 contribute to maintaining the hydrological connectivity within the water source and with downstream water sources by ensuring a portion of medium and high natural flows are protected.
 - (d) reserve a share of water to support environmental watering events in streams, riparian zones, floodplains and wetlands connected to the water source,
Note. The provisions in Part 10 ensure that environmental water allowances are maintained.
 - (e) reserve a share of water for the management of water quality, including for the purposes specified in clause 56 (1),
Note. Division 2 of Part 10 includes provisions for a Water Quality Allowance (WQA).
 - (f) reserve a share of water to maintain a visible flow in the Lachlan River at Geramy.
- (4) The performance indicator used to measure the success of the strategies for achieving 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 achieving 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 carbon and nutrient transport processes and 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,
 - (d) the magnitude, frequency, timing and water quality of environmental water events.
 - (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 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 the water source during the term of this Plan have affected progress towards achieving the environmental objectives.

9 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 provide 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, up to the long-term average annual extraction limit and the long-term average sustainable diversion limit,
 - (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for achieving the targeted economic objectives of this Plan are as follows:
 - (a) provide for trade of water allocations and access licence share components subject to environmental and system constraints,
Note. The provisions in Part 9 permit a variety of dealings within environmental and system 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 available water determination provisions in Part 6 and priority of delivery rules in clause 61 provide certainty in how water is to be shared between different categories of access licences.
 - (c) provide for flexibility of access to water,
Note. The water allocation account management rules in Part 8 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, while recognising variability in climatic conditions in different years, including during drought,
Note. The application of the long-term average annual extraction limit and the long-term average sustainable diversion limit and the assessment and compliance rules in Part 6 manage extractions to different climatic conditions in different years.
 - (e) reserve a share of water to partially mitigate deterioration in water quality due to alterations to natural flow regimes.
- (4) The performance indicator used to measure the success of the strategies for achieving 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 achieving 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, including the movement of water to higher value uses,
 - (b) the economic benefits of water trading as demonstrated by the following:

- (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, 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 economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the water made available during the term of this Plan through available water determinations and the granting of new licences,
 - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress towards achieving the economic objectives.

10 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 uses,
 - (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 uses.
- (3) The strategies for achieving the targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) manage access to water consistent with the exercise of native title rights,
 - (b) provide for water associated with Aboriginal cultural values and uses, including fishing
Note. The provisions in Part 7 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 share of water to partially mitigate alterations to natural flow regimes in this water source,
 - (d) to reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.

- (4) The performance indicator used to measure the success of the strategies for achieving 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 achieving 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 able to be exercised, consistently with any determination of native title or indigenous land use agreement, and
 - (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 towards achieving the Aboriginal cultural objectives.

11 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, licensed domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.

- (3) The strategies for achieving the targeted social and cultural objectives of this Plan are as follows:
- (a) provide water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,

Note. The provisions for the maintenance of water supply in Division 4 of Part 10 ensure that water is available for basic landholder rights, town water supply and licensed domestic and stock purposes.
 - (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,
 - (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.

Note. The provisions in Division 1 of Part 10 contribute to maintaining the hydrological connectivity within the water source and with downstream water sources.
- (4) The performance indicator used to measure the success of the strategies for achieving 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 objective.
- (5) The performance indicators used to measure the success of the strategies for achieving 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 rights have been met, and
 - (ii) the extent to which major utility and local 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 water made available during the term of this Plan through available water determinations and the granting of new licences,
 - (e) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress towards achieving the social and cultural objectives.

[13] Clause 12 Bulk access regime

Omit subclause 12(1). Insert instead—

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following:
 - (a) the planned environmental water provisions established under Part 4,
 - (b) the requirements for water to satisfy basic landholder rights identified under Part 5,
 - (c) the requirements for water for extraction under access licences identified under Part 5,
 - (d) the access licence dealing rules established under Part 9.

[14] Clause 12(2)

Omit the subclause. Insert instead—

- (2) The bulk access regime for the water source:
 - (a) establishes rules according to which:
 - (i) access licences are granted as provided for in Part 7,
 - (ii) available water determinations are to be made as provided for in Part 6,
 - (iii) access licences are managed as provided for in Part 8,
 - (b) establishes rules with respect to the priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in long-term average annual extraction above the long-term average annual extraction limit or long-term average sustainable diversion limit in Part 6, and
 - (c) recognises and is consistent with the following:
 - (i) the limits to the availability of water as provided for in Part 6,
 - (ii) the water management principles set out in section 5 of the Act,
 - (iii) the effect of climatic variability on the availability of water as described in clause 13, and
 - (d) contains provisions with respect to the mandatory conditions imposed on access licences in Part 11.

[15] Clause 13 Climatic Variability

Omit “this water source by having provisions”. Insert instead “the water source through provisions contained in Part 6”.

[16] Clause 13(a) and (b)

Omit the paragraphs. Insert instead—

- (a) manage the sharing of water within the limits of water availability on a long-term basis, and
- (b) establish priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in extraction against the long-term average annual extraction limit or the long-term average sustainable diversion limit, and

- (c) manage the sharing of water between categories of access licences on an annual basis through available water determinations.

[17] Part 4 Planned environmental water provisions, heading

Omit “Planned environmental” from the clause heading. Insert instead “Environmental”.

[18] Part 4 Environmental water provisions, note

Omit “sections 8, 8A and 20” from the note after the clause heading. Insert instead “section 8”.

[19] Clause 14 General

Omit “rules for the commitment, identification, establishment and maintenance of planned environmental water in this water source”. Insert instead “provisions that commit, identify, establish and maintain planned environmental water”.

[20] Clause 15 Commitment and identification of planned environmental water

Omit “in this water source in the following ways:”. Insert instead “by reference to the following:”

[21] Clause 15(a)

Omit the paragraph. Insert instead—

- (a) the physical presence of water in the water source,

[22] Clause 15(b)

Omit “by reference to”.

[23] Clause 15(c)

Omit “by reference to”.

[24] Clause 16 Establishment and maintenance of planned environmental water

Omit the clause. Insert instead—

- (1) Planned environmental water is established in the water source as follows:

- (a) the physical presence of water resulting from the following:

- (i) the environmental flow provisions specified in Division 1 of Part 10,

Note. The environmental flow rules in Division 1 of Part 10 provide for environmental flows to be released from Wyangala Dam.

- (ii) the environmental water allowance provisions specified in Division 2 of Part 10,

Note. The environmental water allowance rules in Division 2 of Part 10 ensure water is reserved and released for environmental purposes from Wyangala Dam and Lake Brewster.

- (iii) the water quality allowance provisions in Division 2 of Part 10,

Note. The water quality allowance rules in Division 2 of Part 10 ensure that water is credited to a water quality allowance and that releases may be made from this allowance for water quality purposes.

- (b) the long-term average annual commitment of water as planned environmental water, resulting from compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit in Divisions 1 to 4 of Part 6,

- (c) the water remaining in this water source after water has been taken pursuant to basic landholder rights and access licences, in accordance with the rules specified in Parts 6 and 8 of this Plan.
- (2) The planned environmental water established under subclause (1) (a) is maintained by:
 - (a) the environmental flow provisions specified in Division 1 of Part 10, and
 - (b) the environmental water allowance provisions specified in Division 2 of Part 10, and
 - (c) the water quality allowance provisions in Division 2 of Part 10.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Divisions 1 to 4 of Part 6.

Note. The provisions in Divisions 1 to 4 of Part 6 ensure that there will be water remaining in the water source over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. These provisions also provide for reduced available water determinations when either of the limits have been assessed to have been exceeded.

- (4) The planned environmental water established under subclause (1) (c) is maintained in this water source by the rules specified in Parts 6 and 8 of this Plan.

[25] Clause 17 Application

Omit “from this water source” from subclause 17(1).

[26] Clause 17(1)

Omit “(Division 2)”.

[27] Clause 17(1)

Omit “(Division 3)”. Insert instead “in the water source”.

[28] Clause 17(2)

Omit the subclause. Insert instead—

- (2) The volumes of water specified in this Part represent the estimated requirements for water to satisfy basic landholder rights and the total volumes or unit shares specified in the share components of all access licences.

[29] Clause 17(3)

Omit the subclause and note. Insert instead—

- (3) This Plan recognises that requirements for basic landholder rights and the total share components of all access licences may change during the term of this Plan.

Notes.

- 1 The total share components of access licences in the water source may change during the term of this Plan as a result of:
 - (a) the grant, surrender or cancellation of access licences in the water source, or
 - (b) the variation of local water utility licences under section 66 of the Act.
- 2 Basic landholder rights requirements may increase as provided for under the Act. This Plan manages changes in basic landholder rights and total share components of all access licences through provisions in Part 6 which manage the sharing of water within the limits of water availability.
- 3 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water should not be consumed, or otherwise used, without first being tested and, if necessary, appropriately treated to ensure it is fit for purpose. Testing and treatment is the responsibility of the water user.

[30] Part 5, Division 2 Requirements for water for basic landholder rights

Insert note after the division heading—

Note. Under the Act, basic landholder rights are defined as domestic and stock rights, native title rights and harvestable rights. There are no harvestable rights in the water source.

[31] Clause 18 Domestic and stock rights

Omit “in this water source”.

[32] Clause 18, notes

Omit the notes. Insert instead—

Notes.

- 1 Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.
- 2 Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.
- 3 The volumes set out in this clause are separate from any volumes of water that may be taken under an access licence for domestic and stock purposes.

[33] Clause 19 Native title rights

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) any determination of native title, and
- (b) any indigenous land use agreement.

Notes.

- 1 No determinations of native title in relation to the water source have been made in accordance with the *Native Title Act 1993* of the Commonwealth.
- 2 This Plan may be amended if there is a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

[34] Part 5, Division 3 Requirements for water for extraction under access licences

Omit “for extraction” from the division heading.

[35] Part 5, Division 3 Requirements for water under access licences

Omit the notes after the division heading. Insert instead—

Notes.

- 1 The share components in this Division include access licences with adaptive environmental water conditions as defined in section 8 of the Act, and other access licences intended to be used for environmental purposes. The Environmental Water Register maintained by the Department provides a record of these licences.
- 2 There are two access licences with adaptive environmental water conditions as defined in section 8 of the Act totalling 13,000 unit shares.

- 3 There are 15 other access licences with share components totalling 114,336 unit shares that are not identified as licensed environmental water as defined in section 8 of the Act but are intended to be used for environmental purposes. Some of these are held by the Commonwealth Government and others by the NSW Government. These access licences are regulated river (general security) access licences or regulated river (high security) access licences.
- 4 This Division sets out the total volumes or unit shares in the share components of access licences in the water source. The actual volume of water available from year to year will depend on climate, access licence priority and the provisions in this Plan.

[36] Part 5, Division 3 Requirements for water under access licences, clause heading for clauses 20, 21, 22, 23 and 24

Omit “component” from the clause heading in clauses 20, 21, 22, 23 and 24. Insert instead “components”.

[37] Clauses 20, 21, 22, 23 and 24

Omit “authorised to take water from this water source” wherever occurring.

[38] Clause 25 Share component of supplementary water access licences

Omit the clause.

[39] Part 6 System operation requirements

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 extraction limits:

- (a) a long-term average annual extraction limit, and
- (b) a long-term average sustainable diversion limit.

Division 1 Calculations under this Part

25 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following:
 - (a) the long-term average annual extraction limit under clause 26,
 - (b) the long-term average annual extraction under clause 27,
 - (c) the annual permitted take under clause 30,
 - (d) the annual actual take under clause 30.

Note. *Annual permitted take* and *annual actual take* are defined in the Dictionary.
- (2) Any calculation to which this clause applies must include allocations assigned to an access licence in the water source from an access licence in another water source under section 71T or 71V of the Act.
- (3) The calculation of the long-term average annual extraction limit under clause 26 must be adjusted by a volume that appropriately reflects the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act.
- (4) For the avoidance of doubt, the following are not extraction for the purposes of calculations to which this clause applies:
 - (a) allocations assigned from an access licence in the water source to an access licence in another water source under section 71T or 71V of the Act,

- (b) environmental water delivered under Division 1 and Division 2 of Part 10 of this Plan,
- (c) delivery of replenishment flows made in accordance with clause 59 of this Plan.

Division 2 Long-term average annual extraction limit

26 Calculation of the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister must calculate the long-term average annual extraction limit for the water source in accordance with this clause and clause 25.
- (2) The long-term average annual extraction limit is the lesser of the following:
 - (a) long-term average annual extraction calculated based on the following:
 - (i) the water storages and water use development that existed in the 1999/2000 water year,
 - (ii) the basic landholder rights and access licence share components that existed on 1 July 2004,
 - (iii) the rules in the *Water Sharing Plan for the Lachlan Regulated River Water Source 2003* as at 1 July 2004,
 - (iv) the maximum crop area and the crop planting behaviour that was in place at the commencement of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2003*,
 - (v) the level of development for plantation forestry that existed on 1 July 2009.
 - (b) long-term average annual extraction calculated under Cap baseline conditions as agreed under the Murray-Darling Basin Agreement that was in place at the commencement of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2003*.
- (3) For the purposes of subclause (2), the long-term average annual extraction limit is to be calculated over the duration of available climate records using the plan limit hydrological computer model approved by the Minister.

Notes.

- 1 Under section 8F of the Act the long-term average annual extraction limit is taken to be varied by the amount of any change to the amount of water committed as licensed environmental water, excluding water committed under section 8C of the Act.
- 2 The long-term average annual extraction limit recognises the effect of climatic variability on the availability of water in accordance with section 20 (2) (c) of the Act, as historic climate and river flow information is used in its determination.
- 3 ***Plantation forestry***, ***water storage*** and ***water use development*** are defined in the Dictionary.

27 Calculation of long-term average annual extraction

The Minister, using a current conditions hydrological computer model approved by the Minister, is to calculate the long-term average annual extraction following the end of each water year, calculated over the duration of available climate records and based on the following:

- (a) the water storages and water use development that existed in that water year,

- (b) the basic landholder rights and access licence share components that existed in that water year,
- (c) the rules in this Plan or in the water sharing plan that this Plan replaces, that applied in that water year,
- (d) the level of development for plantation forestry in that water year.

Note. It is intended that the Department's current conditions hydrological computer model will be extended each water year and used to calculate long-term average annual extraction under this clause.

28 Assessment of compliance with the long-term average annual extraction limit

- (1) Following the calculations under clauses 26 and 27, the Minister is to compare the long-term average annual extraction against the long-term average annual extraction limit.
- (2) There is non-compliance with the long-term average annual extraction limit if the long-term average annual extraction exceeds any of the following:
 - (a) the long-term average annual extraction limit by:
 - (i) 3% or more, or
 - (ii) more than half the difference between the long-term average annual extraction calculated under subclauses 26 (2) (a) and 26 (2) (b),
 - (b) the long-term average annual extraction calculated under subclause 26 (2) (b).

Division 3 Long-term average sustainable diversion limit

29 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 source is:
 - (a) the component of the baseline diversion limit for the Lachlan surface water SDL resource unit as determined under Schedule 3 of the Basin Plan that, in the Minister's opinion, is attributable to the water source, minus
 - (b) the component of the local reduction amount for the Lachlan surface water SDL resource unit as determined under Schedule 2 of the Basin Plan that, in the Minister's opinion, is attributable to the water source, plus
 - (c) the component of the SDL adjustment amount for the Lachlan surface water SDL resource unit as determined under section 6.05A of the Basin Plan, that in the Minister's opinion, is attributable to the water source.
- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

Notes.

- 1 **Baseline diversion limit, Lachlan surface water SDL resource unit** and **SDL adjustment amount** are defined in the Dictionary.
- 2 The long-term sustainable diversion limit for the Lachlan surface water SDL Resource Unit as specified in Schedule 2 of the Basin Plan also applies to extraction from the Belubula Regulated River Water Source and the Lachlan Unregulated River Water Sources.
- 3 Schedule 2 of the Basin Plan specifies a local reduction amount of 48,000 ML/year for the Lachlan surface water SDL Resource Unit.

30 Calculation of annual permitted take 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 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 source.

Notes.

- 1 Take of licensed environmental water and take 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 **Take** and **consumptive use** are defined in section 4 of the *Water Act 2007* of the Commonwealth.

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

- (1) Following the calculation under clause 30 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.

Division 4 Compliance with extraction and diversion limits

32 Action following non-compliance

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 28 or 31 demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister must reduce the volume that may be taken or assigned from regulated river (general security) access licence take subaccounts.

Note. The amount of water that may be taken or assigned from regulated river (general security) access licence take subaccounts is specified in clause 42.

- (2) The Minister may also take the action specified in subclause (1) as a result of any action taken under clause 6.12 (5) of the Basin Plan.
- (3) Any action under subclause (1) or (2) must only 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 the long-term average annual extraction limit— to return long-term average annual extraction in the water source to the long-term average annual extraction limit,
 - (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) Before taking any action under this clause, the Minister may consult with water user representatives, the Environmental Water Manager and the operator regarding the following:

- (a) the data used for the calculations under Divisions 2 and 3,
- (b) the proposed actions under this Division.

Division 5 Available water determinations

33 General

- (1) Available water determinations for access licences are to be expressed as one of the following:
 - (a) for an access licence specifying the share component in ML/year— a percentage of the share component,
 - (b) for an access licence specifying the share component as a number of unit shares— ML per unit share.
- (2) The sum of available water determinations made for any access licence, other than for regulated river (general security) access licences or regulated river (conveyance) access licences, must not exceed the following in any water year:
 - (a) for any access licence where share components are specified as ML/year— 100% of the share component,
 - (b) for any access licence specifying the share component as a number of unit shares— 1 ML per unit share of the share component.

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 regulated river (high security) access licences

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination is to be made for regulated river (high security) access licences of 1 ML per unit share.
- (2) The Minister must not make an available water determination in accordance with this clause unless sufficient water is available for all of the following:
 - (a) to meet the provisions in Divisions 1 and 2 of Part 10,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts,

- (e) to account for water losses associated with holding and delivering the water:
 - (i) to be made available as a result of the available water determinations made under subclause (1), and
 - (ii) referred to in paragraphs (a) to (d).

Notes.

- 1 If the available water determination is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to clause 33.
- 2 Pursuant to clause 45(3) all allocations within the spillable subaccounts of regulated river (high security) access licences will be withdrawn when Wyangala Dam, Lake Brewster and Lake Cargelligo are full or are deemed to be full, or that they will fill.

37 Available water determinations for regulated river (general security) access licences

- (1) The Minister is to assess if water is available for the making of an available water determination for regulated river (general security) access licences at the commencement of each water year, and at least monthly.
- (2) For the purposes of the assessment, water is not available unless sufficient water is available for the following:
 - (a) to meet the provisions in Divisions 1 and 2 of Part 10,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to make available water determinations totalling 1 ML per unit share for regulated river (high security) access licences,
 - (e) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts and existing water allocations in the spillable subaccount of regulated river (high security) access licences,
 - (f) to account for water losses associated with holding and delivering the water:
 - (i) to be made available as a result of the available water determination made under subclause (3), and
 - (ii) referred to in paragraphs (a) to (e) above.
- (3) If the Minister assesses under subclause (1) that water is available, the Minister is to consider making an available water determination for regulated river (general security) access licences.
- (4) Unless the Minister otherwise determines, an available water determination for all regulated river (general security) access licences is to be made when all water allocations held in the water allocation accounts of regulated river (general security) access licences have been withdrawn under clause 45 (3).

Notes.

- 1 The effect of clauses 37 (4) and 45 (3) is that all regulated river (general security) access licence accounts will be emptied when Wyangala Dam, Lake Brewster and Lake Cargelligo are full or are deemed to be full, or that they will fill.
- 2 Assessments indicate that when Wyangala Dam, Lake Brewster and Lake Cargelligo are full it should be possible for each general security access licence account to hold a maximum 1.36 ML/unit of share component.

38 Available water determinations for regulated river (conveyance) access licences

(1) Unless the Minister otherwise determines, an available water determination is to be made for regulated river (conveyance) access licences at the commencement of each water year and whenever an available water determination is made for regulated river (general security) access licences.

(2) The available water determination made in accordance with subclause (1) is to be determined using the formula:

$$(CL_2 - CL_1) / TC_{sc}$$

where:

CL₂ is equal to the total volume of water required to meet Jemalong Irrigation Limited's conveyance loss for the water year as set out in subclause (3).

CL₁ is equal to:

- (i) zero, if the available water determination is made because an available water determination is made for regulated river (general security) access licences following the withdrawal of water allocations from those licences under clause 45 (3), or
- (ii) in any other circumstance, the total volume of water required to meet Jemalong Irrigation Limited's conveyance loss calculated as set out in subclause (3) but as calculated as at the time of the last available water determination for regulated river (conveyance) access licences in the water year,

TC_{sc} is the total share components of regulated river (conveyance) access licences.

(3) For the purposes of this clause:

CL₂ is equal to the total volume of water required to meet Jemalong Irrigation Limited's conveyance loss for the water year in which the AWD is made as follows:

- (a) if the TWA is less than or equal to 0.2 ML/unit of share component— 2,400 ML plus 570 ML for each 0.01 ML/unit of share component of the TWA.
- (b) if the TWA is greater than 0.2 ML/unit of share component and less than 0.75 ML/unit of share component— 13,800 ML plus 74.745 ML for each 0.01 ML/unit of share component above 0.2 ML/unit of share component of the TWA,
- (c) if the TWA is equal to or greater than 0.75ML/unit of share component— 17,911 ML.

(4) For the purposes of this clause:

TWA means the total water availability in ML/unit of share component for regulated river (general security) access licences used to supply water to Jemalong Irrigation Limited's area of operation as calculated using the formula:

$$(GS_1 + GS_2) / GS_{sc}$$

where:

GS₁ is the total water allocation in the take subaccounts of regulated river (general security) access licences that are used to supply water to Jemalong Irrigation Limited's area of operation as at the commencement of the water year.

GS₂ is the total volume of water credited from all available water determinations made in the water year for regulated river (general security) access licences to the water

allocation accounts of regulated river (general security) access licences that are used to supply water to Jemalong Irrigation Limited's area of operation.

GS_{sc} is the total share components of regulated river (general security) access licences that are used to supply water to Jemalong Irrigation Limited's area of operation.

[40] Part 7 Limits to the availability of water

Omit the Part. Insert instead—

Part 7 Rules for granting access licences

Notes.

- 1 This Part is made in accordance with sections 20 (2) (b), 61 and 63 of the Act. Section 61 of the Act provides for applications for specific purpose access licences in accordance with the regulations and the relevant water sharing plan.
- 2 Access licences granted in the water source will be subject to mandatory conditions required to be imposed by this Plan, the regulations and the Act, and may be subject to discretionary conditions.

39 Specific purpose access licences

- (1) The Minister must not grant a specific purpose access licence unless satisfied that the share and extraction components of the access licence are the minimum required for the proposed use.
- (2) A person may make an application for a regulated river (high security) (Aboriginal cultural) access licence if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) The Minister may only grant a regulated river (high security) (Aboriginal cultural) access licence 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.

[41] Part 8 Rules for granting access licences

Omit the Part. Insert instead—

Part 8 Operation of water allocation accounts and managing access licences

Notes.

- 1 Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part restrict the water that may be taken under, or assigned from, an access licence over a specified period of time, and the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These restrictions are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.
- 2 The provisions in this Part apply to the following:
 - (a) the Minister in managing water allocation accounts,
 - (b) the access licence holder, as required by mandatory conditions imposed on the access licence under Part 11.

40 Debits from an individual water allocation account

- (1) For any access licence, the Minister must debit the volume of water extracted by water supply works nominated by the access licence from the water allocation account for that access licence, except where subclause (2) applies.
- (2) For any access licence, if the Minister has given written notice to the holder of the licence in accordance with a water order debiting protocol established by the Minister, the Minister must debit the greater of the following from the water allocation account for that access licence:
 - (a) the volume of water extracted by water supply works nominated by the access licence,
 - (b) the water ordered for extraction under the access licence.

Note. The Minister may take action under subclause (2) if, for example, water orders from a particular licence holder exceed the volume of water taken under the licence and this cannot be explained by rainfall or other unavoidable factors.

41 Limits on water allocation accounts and carryover

- (1) The Minister must not allow allocations in a water allocation account to exceed the following at any time:
 - (a) for domestic and stock access licence or local water utility access licence— 100% of the share component,
 - (b) for a regulated river (general security) access licence— 2 ML per unit share, or
 - (c) for a regulated river (conveyance) access licence— 1 ML per unit share.
- (2) Water allocations remaining in a water allocation account must not be carried over from one water year to the next water year for the following categories of licences:
 - (a) domestic and stock access licence,
 - (b) local water utility access licence,
 - (c) regulated river (high security) access licence,
 - (d) regulated river (conveyance) access licence.
- (3) Subject to subclause (1), water allocations remaining in the water allocation account must be carried over from one water year to the next water year for regulated river (general security) access licences.

42 Subaccounts of regulated river (general security) access licences

- (1) The water allocation accounts for all regulated river (general security) access licences will be comprised of the following subaccounts:
 - (a) the *take subaccount*,
 - (b) the *hold subaccount*.
- (2) The take subaccount holds water allocations that may be taken by the licence holder in a water year.
- (3) The hold subaccount holds water allocations that may not be taken by the licence holder during a water year.
- (4) For a regulated river (general security) access licence, the total water allocation that is taken or assigned under section 71T of the Act from the take subaccount in a water year must not exceed the following:
 - (a) 1 ML per unit share or such lower amount that reflects reductions made in accordance with clause 32,

- (b) plus any water allocations assigned to the water allocation account for the access licence from the take subaccount of another regulated river (general security) access licence under section 71T of the Act in that water year,
 - (c) plus any water allocations assigned to the water allocation account for the access licence from an access licence other than a regulated river (general security) access licence under section 71T of the Act in that water year,
 - (d) plus any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
- (5) Subject to subclause (6), water allocations for regulated river (general security) access licences must be:
- (a) credited to the take subaccount of the licence if the total volume placed into that subaccount from available water determinations during the water year is less than $J-K+L$,
 - (b) if subclause 5 (a) does not apply, credited to the hold subaccount of the licence,
 - (c) debited in accordance with clause 40, from the take subaccount of the licence,
- where:
- J* means 1 ML per unit share (or such lower amount that reflects reductions made in accordance with clause 32).
- K* means the volume in the take subaccount at the commencement of the water year after any adjustments under subclauses (7) and (8),
- L* means the volume of water withdrawn from the take subaccount under clause 45 (3).
- (6) Unless otherwise specified in the water return flow rules established under section 76 of the Act, water allocations re-credited to regulated river (general security) access licences under section 76 of the Act must be re-credited to the:
- (a) take subaccount of the access licence where re-crediting occurs in the water year in which the water allocations were used, or
 - (b) hold subaccount of the access licence where re-crediting occurs in a water year subsequent to that in which the water allocations were used.
- (7) If water allocations are carried over under clause 41 (3) and water allocations in the take subaccount of a regulated river (general security) access licence are:
- (a) greater than 1 ML per unit share (or such lower amount that reflects reductions made in accordance with clause 32), then a volume of water allocations equal to the volume of exceedance must be moved from the take subaccount to the hold subaccount, or
 - (b) less than 1 ML per unit share (or such lower amount that reflects reductions made in accordance with clause 32), then a volume of water allocations must be moved from the hold subaccount to the take subaccount which is equal to the lesser of:
 - (i) the volume of water allocations in the hold subaccount, or
 - (ii) the volume which would increase the volume of water allocations in the take subaccount to 1 ML per unit share (or such lower amount that reflects reductions made in accordance with clause 32).

43 Subaccounts of regulated river (high security) access licences

- (1) The water allocation accounts of all regulated river (high security) access licences will be comprised of the following subaccounts:
 - (a) the available water determination subaccount (*AWD subaccount*),
 - (b) the *spillable subaccount*.
- (2) The AWD subaccount holds water allocations credited to the licence following an available water determination during a water year and any water allocations assigned from other access licences under section 71T of the Act, except those water allocations held by the spillable subaccount under subclause (3).
- (3) The spillable subaccount holds water allocations that are assigned to the licence from the take subaccount of a regulated river (general security) access licence during the water year under section 71T of the Act.

Notes.

- 1 Assignment of water allocations from the hold subaccount of a regulated river (general security) access licence to a regulated river (high security) access licence are prohibited under clause 49.
 - 2 The water in the spillable subaccount will be withdrawn when Wyangala Dam spills and other storages are full.
- (4) Water allocations for regulated river (high security) access licences must be:
 - (a) credited into the AWD subaccount in accordance with available water determinations, and
 - (b) debited from the spillable subaccount until the volume in that subaccount reaches zero, and then from the AWD subaccount, unless otherwise notified by the licence holder.

44 Accounting rules for assignments of water allocations

Water allocations assigned under section 71T of the Act:

- (a) from the AWD subaccount of a regulated river (high security) access licence to another regulated river (high security) access licence must be credited to the AWD subaccount,
- (b) from the spillable subaccount of a regulated river (high security) access licence to another regulated river (high security) access licence must be credited to the spillable subaccount,
- (c) from a spillable subaccount of a regulated river (high security) access licence to a regulated river (general security) access licence must be credited to the take subaccount,
- (d) from a take subaccount of a regulated river (general security) access licence to a regulated river (general security) access licence must be credited to the take subaccount,
- (e) from a hold subaccount of a regulated river (general security) access licence to another regulated river (general security) access licence must be credited to the hold subaccount,
- (f) from an access licence that is not permitted to carryover water allocations from one water year to the next, to a regulated river (general security) access licence must be credited to the take subaccount,

- (g) from the take subaccount of a regulated river (general security) access licence or a regulated river (conveyance) access licence to a regulated river (high security) access licence must be credited to the spillable subaccount.

Note. Clause 49 (2) (a) prevents the assignment of water allocations from the hold subaccount of a regulated river (general security) access licence to a regulated river (high security) access licence.

45 Other accounting rules

- (1) Evaporation reductions will apply to water allocations carried over under clause 41 (3) based on net evaporation on the extra surface area generated by the carried over water in:
- (a) Wyangala Dam, when the total volume of allocations being carried over under clause 41 (3) is less than the storage volume of Wyangala Dam, or
 - (b) Wyangala Dam, Lake Cargelligo and Lake Brewster, when the total volume of allocations being carried over under clause 41 (3) exceeds the storage volume of Wyangala Dam.
- (2) Evaporation reductions under subclause (1) will:
- (a) be determined by the operator and applied to the take subaccount and hold subaccount of a regulated river (general security) access licence at the end of each quarter of a water year, and
 - (b) not be applied to water allocations accrued from available water determinations in that water year.
- (3) No more than once every six months, all water allocations in the following must be withdrawn whenever Wyangala Dam, Lake Brewster and Lake Cargelligo are full, the Minister deems that Wyangala Dam, Lake Brewster and Lake Cargelligo to be full, or the Minister is satisfied that Wyangala Dam, Lake Brewster and Lake Cargelligo will fill from flows already in the water source or its tributaries:
- (a) all water allocation accounts of regulated river (general security) access licences,
 - (b) the spillable subaccounts of regulated river (high security) access licences, and
 - (c) the water allocation accounts of regulated river (conveyance) access licences.
- (4) Without limiting the Minister's power under subclause (3) to deem the dams referred to in that subclause to be full, the Minister may, from time to time, deem that the full volume of Lake Brewster and Lake Cargelligo is less than their physical full capacity for any reason (including to support a bird breeding event).

Notes.

- 1 The effect of clauses 37 (4), 38 and clause 45 (3) is that all regulated river (general security) access licence accounts and regulated river (conveyance) access licence accounts will be emptied and new available water determinations made when Wyangala Dam, Lake Brewster and Lake Cargelligo are full or will fill.
- 2 Water remaining in the spillable subaccounts of regulated river (high security) access licences must be withdrawn.
- 3 Water remaining in the AWD subaccounts of regulated river (high security) access licences must remain.

[42] Part 9 Rules for managing access licences

Omit the Part. Insert instead—

Part 9 Access licence dealing rules

Notes.

- 1 Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2 At the commencement of this Plan the Access Licence Dealing Principles Order 2004 applies. The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided by section 71Z (3) of the Act.
- 3 This Part may be amended if individual daily extraction components are imposed on access licences in the water source.

46 Conversion of access licence to new category

Dealings under section 71O of the Act are prohibited.

47 Assignment of rights dealings

- (1) A dealing under section 71Q of the Act is prohibited if the dealing involves an assignment of rights:
 - (a) to an access licence that nominates a water supply work located within the segment of Willandra Creek that is within the water source, if it would cause the sum of the share components of all access licences that nominate a water supply work located in that segment to exceed 23,457, or
 - (b) to an access licence that nominates a water supply work located in the segment of the Lachlan River downstream of Booligal Weir that is within the water source, if it would cause the sum of the share components of all access licences that nominate a water supply work located in that segment to exceed 16,585, or
 - (c) that would result in $A - B$ exceeding 149,000 share components, where:

A is the total amount of share components assigned from access licences that nominate a water supply work located upstream of Lake Cargelligo Weir, to access licences that nominate a water supply work located downstream of Lake Cargelligo Weir.

B is the total amount of share components assigned from access licences that nominate a water supply work located downstream of Lake Cargelligo Weir, to access licences that nominate a water supply work located upstream of Lake Cargelligo Weir.
- (2) A dealing under section 71Q of the Act that is from or to an access licence in another water source is prohibited.

48 Amendment of share component (change of water source)

Dealings under 71R of the Act are prohibited.

49 Assignment of water allocation dealings

(1) Assignment dealings prohibited where volumes are exceeded

A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocation:

- (a) that would result in $A+B-C-D$ exceeding 149,000 ML, where:

A is the total volume of water allocations assigned during a water year from the take subaccounts of regulated river (general security) access licences whose extraction components only permit the taking of water upstream of Lake Cargelligo Weir, to the accounts of access licences whose extraction components only permit the taking of water downstream of Lake Cargelligo Weir.

B is the total volume of water allocations assigned during a water year from the accounts of all categories of access licence, other than regulated river (general security) access licences, whose extraction component only permits the taking of water upstream of Lake Cargelligo Weir, to the accounts of access licences whose extraction component only permits the taking of water downstream of Lake Cargelligo Weir.

C is the total volume of water allocations assigned during a water year from the take subaccounts of regulated river (general security) access licences whose extraction component only permits the taking of water downstream of Lake Cargelligo Weir, to the accounts of access licences whose extraction components only permit the taking of water upstream of Lake Cargelligo Weir.

D is the total volume of water allocations assigned during a water year from the accounts of all categories of access licences, other than regulated river (general security) access licences, whose extraction component only permits the taking of water downstream of Lake Cargelligo Weir to the accounts of access licences whose extraction component only permits the taking of water upstream of Lake Cargelligo Weir, or

- (b) to an access licence that nominates a water supply work located in the segment of the water source that is downstream of Booligal Weir if it would result in the total volume of water allocation that may be taken in any water year, by access licences whose nominated water supply works are located in that segment, to exceed 16,585 ML, or
- (c) to an access licence that nominates a water supply work located in the segment of Willandra Creek that is within the water source if it would result in the total volume of water allocation that may be taken in any water year by access licences nominating water supply works in that segment to exceed 23,457 ML.

(2) **Assignment dealings prohibited from regulated river (general security) access licences**

A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocations:

- (a) from the hold subaccount of a regulated river (general security) access licence to the water allocation account of any other category of access licence, or
- (b) from the take subaccount of a regulated river (general security) access licence to the hold subaccount of a regulated river (general security) access licence, or
- (c) from the hold subaccount of a regulated river (general security) access licence to the take subaccount of a regulated river (general security) access licence.

(3) **Assignment dealings prohibited from regulated river (high security) access licences**

A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocations:

- (a) from the AWD subaccount of a regulated river (high security) access licence to the spillable subaccount of another regulated river (high security) access licence, or
- (b) from the spillable subaccount of a regulated river (high security) access licence to the AWD subaccount of another regulated river (high security) access licence, or

- (c) from the spillable subaccount of a regulated river (high security) access licence to the hold subaccount of a regulated river (general security) access licence.

(4) Other assignment dealings prohibited within the water source

A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocations:

- (a) from an access licence which is not permitted to carry over water allocations from one water year to the next, to the hold subaccount of a regulated river (general security) access licence, or
- (b) from the take subaccount of a regulated river (general security) access licence or a regulated river (conveyance) access licence to the AWD subaccount of a regulated river (high security) access licence.

(5) Assignment dealings prohibited to or from another water source

A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocations to or from an access licence in the water source to or from an access licence in another water source.

50 Interstate access licence transfer and assignment of water allocation

- (1) A dealing under section 71U of the Act is prohibited unless administrative arrangements are in place between NSW and another relevant State or Territory and the interstate transfer of the access licence is made in accordance with those arrangements.
- (2) A dealing under section 71V of the Act is prohibited unless administrative arrangements are in place between NSW and another relevant State or Territory and the interstate assignment of water allocations is made in accordance with those arrangements.

51 Nomination of water supply works dealings

- (1) A dealing under section 71W of the Act is prohibited if the dealing involves:
 - (a) an access licence being amended to nominate a water supply work located in the segment of Willandra Creek that is within the water source if it would cause the sum of the share components of all access licences nominating water supply works located in that segment to exceed 23,457 ML, or
 - (b) an access licence being amended to nominate a water supply work located in the segment of the water source that is downstream of Booligal Weir if it would cause the sum of the share components of all access licences nominating water supply works located in that segment to exceed 16,585 ML, or
 - (c) an access licence that nominates a water supply work located in the segment of the water source that is upstream of Lake Cargelligo Weir being amended to nominate a water supply work located in the segment of the water source that is downstream of Lake Cargelligo Weir, or
 - (d) an access licence that nominates a water supply work in the segment of the water source that is downstream of Lake Cargelligo Weir being amended to nominate a water supply work that is located in the segment of the water source that is upstream of Lake Cargelligo Weir.
- (2) A dealing under section 71W of the Act is prohibited if it involves an access licence in the water source being amended to nominate a water supply work located in different water source.

- (3) A dealing under section 71W of the Act that involves the nomination of a water supply work located in a State or Territory other than NSW by an access licence in the water source is prohibited.
- (4) A dealing under section 71W of the Act that involves the nomination of a water supply work in the water source by an access licence from a State or Territory other than NSW is prohibited.

[43] **Part 10 Access licence dealing rules**

Omit the Part. Insert instead—

Part 10 System operation rules

Note. *Full supply volume*, *NSW Environmental Water Manager*, and *operator* are defined in the Dictionary.

Division 1 Environmental flow rules

52 Daily environmental release

- (1) Subject to subclause (6), the operator must make a daily environmental release from Wyangala Dam in accordance with subclause (5) during the period of 15 May to 15 November, whenever all of the following apply:
 - (a) the sum of inflows to Wyangala Dam since 1 January in that calendar year have been greater than 250,000 megalitres (*ML*),
 - (b) the combination of daily inflows to Wyangala Dam and tributary inflows to the water source downstream of Wyangala Dam are capable, in the operator's opinion, of producing a flow in the Lachlan River at Lachlan Lake Brewster Weir gauge (412048) greater than:
 - (i) 4,000 megalitres per day (*ML/day*), when the volume of water held in Wyangala Dam is less than or equal to 50% of the full supply volume, or
 - (ii) 3,500 *ML/day*, when the volume of water held in Wyangala Dam is more than 50% of the full supply volume.
- (2) The operator may substitute releases from Lake Cargelligo and Lake Brewster for all or part of the daily environmental release from Wyangala Dam if the release from Wyangala Dam is likely to cause flooding.
- (3) Water released in accordance with subclause (2) from Lake Brewster must be accounted as daily environmental release passing at Lake Brewster Weir and not for the purposes of subclause (6) (a) or (b).
- (4) Daily environmental releases made under subclause (1) must not be used to supply access licence requirements, basic landholder rights or be diverted to or stored in any weir or water storage.
- (5) The daily environmental release made under subclause (1) must be the lesser of:
 - (a) the daily inflow to Wyangala Dam, or
 - (b) the release necessary to achieve a flow in the Lachlan River at Lachlan Lake Brewster Weir gauge (412048) of:
 - (i) 4,000 *ML/day* plus 25 *ML/day* for each 1% by which the volume of water held in Wyangala Dam exceeds 0% of the full supply volume, when the volume of water held is less than or equal to 50% of the full supply volume, and

- (ii) 3,500 ML/day plus 31.25 ML/day for each 1% by which the volume of water held in Wyangala Dam exceeds 0% of the full supply volume, when the volume of water held is greater than 50% of the full supply volume but less than or equal to 80% of the full supply volume, and
- (iii) 6,000 ML/day plus 100 ML/day for each 1% by which the volume of water held in Wyangala Dam is greater than 80% of the full supply volume.

Note. Subclause (5) (b) (iii) is the maximum release from Wyangala Dam when it is full and is the release necessary to achieve a flow at Lachlan Lake Brewster Weir gauge (412048) of 8,000 ML/day.

- (6) The operator must not make a daily environmental release under subclause (1) when the flows in the Lachlan River at Lake Brewster Weir (412048), as measured since 1 June that water year, have exceeded 350,000 ML plus the sum of the following:
 - (a) the volume of water ordered for take downstream of Lake Brewster and any losses associated with delivery of these orders,
 - (b) replenishment flows to effluents downstream of Lake Brewster and any losses associated with the delivery of those replenishment flows,
 - (c) the volume of water downstream of Lake Brewster Weir resulting from releases undertaken to create airspace under clause 64,
- (7) Tributary inflows occurring when the daily environmental release is being made under this clause must not be used to supply access licence requirements or basic landholder rights or be diverted to, or stored in, any weir or water storages, except to the extent that they are in excess of the flow required to meet the flow rates specified in subclause (1) (b).

Note. *Airspace* is defined in the Dictionary.

- (d) the volume of water released from the environmental water allowance and the water quality allowance under clauses 55 and 56,
- (e) the volume of water released to maintain a visible flow at Geramy under clause 59.

Note. If flows are insufficient to satisfy subclause (1) (b), or the conditions specified in subclauses (1) (a) or (6), tributary inflows may be diverted and stored in Lake Cargelligo or Lake Brewster, consistent with normal operational management.

- (8) In the event that the release capacity of Wyangala Dam is insufficient to produce the release rates specified in subclause (5) (b) in addition to the releases required to satisfy access licence orders, the operator must ensure all of the following:
 - (a) releases equal the release capacity,
 - (b) releases to satisfy water orders can be made in accordance with access licence water orders,
 - (c) the volume of the daily environmental release equals the total volume of water released from Wyangala Dam minus the volume of water released to satisfy access licence holder orders,
- (9) Unless subclause (1) is suspended by an order made under section 49A or 49B of the Act, if for operational reasons the daily environmental release required to be made under subclause (1) cannot be made, the operator must release any outstanding amount at a later date in accordance with a plan prepared by the NSW Environmental Water Manager and approved by the Minister.

Division 2 Water allowance rules

53 Environmental water allowances

- (1) The operator must maintain the following environmental water allowances (*EWAs*):
 - (a) an environmental water allowance held in Wyangala Dam water storage, known as the Wyangala Environmental Water Allowance (*Wyangala EWA*),
 - (b) an environmental water allowance held in Lake Brewster, known as the Lake Brewster Environmental Water Allowance (*Brewster EWA*).
- (2) The operator must keep an account of water credited to and debited from each of the environmental water allowances.

54 Crediting and debiting rules for environmental water allowances

- (1) The operator is to credit the Wyangala EWA and Brewster EWA with 10,000 ML each, if:
 - (a) the total volume of water in the water allocation accounts of regulated river (general security) access licences on 1 July exceeds 50% of the total volume of regulated river (general security) access licence share components, or
 - (b) where subclause 2 (a) does not apply, the sum of the volume of water in the water allocation accounts of regulated river (general security) access licences at 1 July, plus the volume of water provided by available water determinations for those licences during the water year, is equivalent to or exceeds 75% of total regulated river (general security) share components.
- (2) The operator must debit the amount of water released under clause 55 from the respective EWA.
- (3) The operator is to forfeit any credits remaining in Wyangala EWA and Brewster EWA at the end of each water year.

55 Release rules for environmental water allowances

- (1) The volume of Brewster EWA available for release from Lake Brewster at any time must be the lesser of:
 - (a) the volume of credit remaining in the Brewster EWA, or
 - (b) the active storage in Lake Brewster, minus any water transferred from Wyangala Dam for operational reasons.

Note. *Active storage* is defined in the dictionary.

- (2) The operator is to make releases from the Wyangala EWA or Brewster EWA in accordance with an order made by the NSW Environmental Water Manager and any procedures established by the Minister with the concurrence of the Minister for the Environment.
- (3) Releases of Wyangala EWA or Brewster EWA under this clause must not be used to supply access licence water orders or basic landholder rights, or be diverted to or stored in any weir or water storage.

56 Water quality allowance

- (1) The operator must maintain a water quality allowance (*WQA*) for the management of any water quality event but in particular for the reduction of salinity levels and mitigation of blue-green algae impacts.
- (2) The WQA must be credited with a volume of water equal to 20,000 ML on 1 July each water year.
- (3) The operator must only release water from the WQA in accordance with a request made by the Minister.

- (4) The operator is to debit the water released under subclause (3) from the WQA.
- (5) Any credits remaining in the WQA at the end of the water year must be forfeited.
- (6) The Minister may seek advice of the NSW Environmental Water Manager before requesting a release of water from the WQA.

Division 3 Consultation

57 Consultation

The NSW Environmental Water Manager may consult with any government agency or the Environmental Water Advisory Group for the water source, or both, and consider any relevant advice, before taking action under Division 2.

Note. At the commencement of this Plan, the Minister has conferred the lead role in managing environmental water allowances established under water sharing plans to the NSW Department of Planning and Environment – Office of Environment and Heritage (OEH). OEH also administers and supports Environmental Water Advisory Groups (EWAGs) to inform the management of environmental water allowances and licensed environmental water. For more information on EWAGs, see Cooperative management of environmental water to improve river and wetland health in NSW (2014), available from the following website: www.environment.nsw.gov.au.

Division 4 General system operation rules

58 Maintenance of water supply

- (1) In this clause, the period of lowest accumulated inflows to the water source is identified by flow information held by the Department prior to 1 July 2004.
- (2) The operator must operate the water supply system in such a way that water would be able to be supplied during a repeat of the period of lowest accumulated inflows to the water source, to meet the following:
 - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights,
 - (b) available water determinations of 100% of share components for domestic and stock access licences and local water utility access licences,
 - (c) available water determinations of 1 ML per unit share for regulated river (high security) access licences.
- (3) The operator must set aside sufficient volumes of water from inflows into the water source and in reserves held in Wyangala Dam or other water storages to provide for the following:
 - (a) the requirements of subclause (2),
 - (b) the replenishment flow requirements in clause 59.
- (4) By 30 June 2026, the Minister will undertake a review of this clause that considers the following:
 - (a) options for redefining the period of lowest accumulated inflows to the water source,
 - (b) whether different periods should apply to different categories of access licences,
 - (c) the impact of any options for change on planned environmental water and each category of access licence, and
 - (d) the views of stakeholders and the broader community.
- (5) On the basis of the review referred to in subclause (4), the Minister may make such amendments to this clause as are reasonably necessary to not jeopardise the critical needs

of basic landholder rights, domestic and stock access licence holders and local water utility access licence holders.

- (6) Any amendments made under subclause (5) cannot substantially alter the long-term average annual amount of water able to be extracted under water access licences.

Notes.

- 1 1 July 2004 was the date of commencement of the first water sharing plan for the water source made under the Act, namely the *Water Sharing Plan for the Lachlan Regulated River Water Source 2003*.
- 2 **Water supply system** and **reserves** are defined in the Dictionary.
- 3 If satisfied that it is in the public interest to do so, the Minister may amend this clause under s.45 (1) (a) of the Act to such an extent that it substantially alters the long-term average annual amount of water able to be extracted under water access licences. If this occurs, compensation may be payable under Chapter 3 Part 2 Division 9 of the Act.
- 4 Section 10.28 of the Basin Plan requires that a water resource plan must ensure there is no net reduction in the protection of planned environmental water from the protection provided under State water management law immediately before the commencement of the Basin Plan.

59 Replenishment flows

- (1) Unless the operator otherwise determines, the operator is to provide the following replenishment flows for domestic and stock requirements:
- (a) up to 12,000 ML/year to Willandra Creek downstream from Homestead Weir to the Ivanhoe/Balranald Road (Grid Reference 229700 east, 6333000 north, Kilfera Map, 1:100,000, Sheet 7731),
Note. This volume includes water for the township of Ivanhoe and Morrisons Lake.
 - (b) up to 9,000 ML/year to the Merrowie Creek Trust District downstream to Cuba Dam (Grid Reference 266800 east, 6249000 north, Tarwong Map, 1:50,000, Sheet 7730),
 - (c) up to 9,000 ML/year to the Torrigany, Muggabah and Merrimajeel Creeks Trust District downstream to the Murrumbidgil Swamp (Angorra Clump) (Grid Reference 281000 east, 6249000 north, Booligal Map, 1:50,000, Sheet 7830 on Merrimajeel Creek and the point on Muggabah Creek at Grid Reference 279000 east, 6239700 north, Booligal Map, 1:50,000, Sheet 7830).

Notes.

- 1 The circumstances under which the replenishment flows specified in subclause (1) are to be provided will be specified as conditions on the water supply work approval held by WaterNSW.
 - 2 The operator may use tributary inflows to the water source to provide the replenishment flows specified in subclause (1).
- (2) Subject to subclause (3), the operator must ensure a continuous supply of water is provided to the off-take at Booberoi Creek at a rate sufficient:
- (a) to provide for town and domestic supply and stock watering, and
 - (b) to produce a visible flow at the Booberoi Creek at Return gauge (412192).
- (3) The operator must cease to supply water under subclause (2) once 12,500 ML has been supplied to the off-take at Booberoi Creek in a water year.
- (4) The operator must ensure that a visible flow is maintained in the Lachlan River at Geramy to provide for domestic supply and stock watering.

Note. Geramy is the last homestead on the Lachlan River. This subclause ensures water is supplied for stock and domestic purposes to the end of the water source.

60 Water delivery and channel capacity constraints

- (1) In managing the water supply system, the operator must consider, determine and specify the operating channel capacities throughout the water source after taking into account, in accordance with procedures established by the Minister, the following:
 - (a) the inundation of private land or interference with access,
 - (b) the effects of inundation on the floodplain and associated wetlands,
 - (c) the transmission losses expected to occur, and
 - (d) the capacity of structures in the water supply system.

Notes.

- 1 **Transmission losses** is defined in the Dictionary.
- 2 Operating channel capacity affects daily supply capability. The following operating channel capacities were determined in 2004:
 - (a) 15,000 ML/day between Wyangala Dam and Jemalong Weir,
 - (b) 10,000 ML/day between Jemalong Weir and Condobolin,
 - (c) 7,000 ML/day between Condobolin and Lake Cargelligo Weir,
 - (d) 2,400 ML/day between Lake Cargelligo Weir and Willandra Weir,
 - (e) 2,000 ML/day between Willandra Weir and Middle Creek Offtake,
 - (f) 1,500 ML/day between Middle Creek Offtake and Hillston Weir,
 - (g) 1,500 ML/day between Hillston Weir and Whealbah,
 - (h) 1,000 ML/day between Whealbah and Torrigany Weir,
 - (i) 500 ML/day in Willandra Creek,
 - (j) 390 ML/day in the Wallamundry Creek system,
 - (k) 2,000 ML/day in Goobang/Bumbuggan Creeks,
 - (l) 800 ML/day between Booligal Weir and Corrong,
 - (m) 600 ML/day downstream of Corrong.
- 3 The following constraints have been identified with the water management structures controlled by the Minister:
 - (a) water delivery in Island Creek may be constrained by the diversion capacities of the Lachlan River,
 - (b) water delivery in the Wallamundry Creek system may be constrained by the diversion capacities of the Island Creek Weir,
 - (c) water delivery in Willandra Creek may be constrained by the diversion capacities of the Willandra Weir.
- 4 Channel capacity in Island Creek, Wallamundry/Wallaroi/Nerrathong Creeks and Willandra Creek will be shared in accordance with flow sharing protocols to be established by the operator.

61 Priority of delivery for access licences and EWA water

- (1) If supply capability due to channel capacity is insufficient in any segment of the water source to satisfy all water orders, basic landholder rights and the delivery of EWA water, the following rules of priority apply:
 - (a) the operator is to give first priority to the requirements for water to satisfy basic landholder rights,
 - (b) once the requirements in (a) have been met, the operator is to supply water to domestic and stock access licences, local water utility access licences that have placed orders for water and to regulated river (high security) access licences that have placed orders for water from the AWD subaccount, in that order,

- (c) once the requirements in (b) have been met, unless otherwise directed by the Minister, any remaining supply capability is to be shared between the following:
 - (i) EWA deliveries that have been ordered,
 - (ii) regulated river (general security) access licences and regulated river (conveyance) access licences that have placed orders for water,
 - (iii) regulated river (high security) access licences that have placed orders for water from the spillable subaccount.
- (2) The sharing of water under subclause (1) (c) must be undertaken by the operator in accordance with any procedures established by the Minister and agreed by the Minister for the Environment.
- (3) The Minister is to consult with water user representatives and relevant government agencies, as the Minister considers appropriate, before determining the procedures in subclause (2).

Notes.

- 1 **Supply capability** is defined in the Dictionary.
- 2 This clause may be amended if individual daily extraction components are imposed.

62 Rates of change to storage releases

When changing the rate of the release of water from a water storage or other water supply system structure, the operator must consider relevant environmental impacts, damage to river banks, public safety, and operational efficiency in accordance with any procedures established by the Minister.

63 Dam operation during floods and spills

- (1) The operation of Wyangala Dam during times of flood and spilling of water from the dam is to be undertaken in a manner that maintains the safety of dam infrastructure.
- (2) Providing it is consistent with subclause (1), the operation must aim to:
 - (a) leave Wyangala Dam water storage as full as possible after a flood or spilling of water, subject to the airspace operation rules in clause 64, and
 - (b) minimise downstream flood damage where possible.

64 Airspace operation rules

The operator must manage Wyangala Dam in accordance with the following:

- (a) airspace is to be maintained in Wyangala Dam for the purpose of reducing downstream flood damage,
- (b) the target airspace volume to be maintained at any time must be set so that the probability of the water storage volume being full by the time significant irrigation demand commences is at least 80%,
- (c) releases undertaken to create airspace should not result in the flow at Cotton’s Weir, Forbes or Jemalong Weir exceeding the minor flood level at these sites,
- (d) if practical, releases to create airspace are to be made through the Wyangala power station when Wyangala Dam is within 1% of the airspace target.

[44] Part 11 Mandatory Conditions

Omit the Part. Insert instead—

Part 11 Mandatory conditions

Note. Mandatory conditions relating to metering equipment and recording of information are imposed by the *Water Management (General) Regulation 2018*. Clauses in this Plan that provide for mandatory conditions to be imposed in relation to metering apply only until the commencement of the metering and reporting mandatory conditions that are prescribed in Part 10 and Part 11 of the *Water Management (General) Regulation 2018*.

Division 1 General

65 Requirement to notify

In this Part, a requirement to notify the Minister in writing will only be satisfied by writing to the email address for enquiries on the Department's website.

Note. The email address for enquiries on the Department's website is:
water.enquiries@dpie.nsw.gov.au

Division 2 Access licences

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

66 Mandatory conditions on access licences

- (1) Each access licence must have mandatory conditions to give effect to the following:
 - (a) upon becoming aware of a breach of any condition of the access licence, the licence holder must:
 - (i) notify the Minister as soon as practical, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm the notification in writing within seven days of becoming aware of the breach,
 - (b) any other condition required to implement the provisions of this Plan.
- (2) Each regulated river (general security) access licence must have a mandatory condition that the licence holder may only take the water available in the water allocation account for the licence and in accordance with the accounting rules in Part 8.
- (3) Each access licence must have a mandatory condition that the licence holder must not take water unless it has been ordered in accordance with procedures established by the Minister.
- (4) The mandatory conditions of an access licence must give effect to subclauses 65 (2) and (3) of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016* (recording and reporting requirements), as in force on 1 July 2016.
- (5) Subclause (4) is taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to this water source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

Note. Under clause 230 of the *Water Management (General) Regulation 2018*, the temporary exemption expires, and 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 the water source from 1 December 2022.

Division 3 Water supply work approvals

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

67 General conditions

- (1) Each water supply work approval must have mandatory conditions to give effect to:
 - (a) the clauses set out in this Division, and
 - (b) any other condition required to implement the provisions of this Plan.

- (2) Upon becoming aware of a breach of any condition of the approval, the approval holder must:
 - (a) notify the Minister as soon as practical, and
 - (b) if the notification under paragraph (a) was not in writing, confirm the notification in writing with seven days of becoming aware of the breach.
- (3) The mandatory conditions of a water supply work approval must give effect to subclause 66 (1) (b), 66 (2) and 66 (3) of the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*, as in force on 1 July 2016.
- (4) The taking of water may only occur in accordance with the conditions applying to the access licence that will have its water allocation account debited for that take.
- (5) Subclauses (3) and (4) do not apply to approvals for water supply works held by Water NSW provided the approval is not nominated by an access licence.
- (6) Water supply work approvals held by Water NSW must have mandatory conditions to give effect to the provisions in Part 10.
- (7) Subclause (3) is taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to the water source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

[45] Part 12 Amendment of this Plan

Omit the Part. Insert instead—

Part 12 Amendment of this Plan

Notes.

- 1 This Part sets out amendments authorised by this Plan.
- 2 For the purposes of section 87 of the Act, the initial period for the water source expired on the commencement of this Plan.
- 3 The Department intends to consult with relevant stakeholders before making any material amendments to this Plan in accordance with this Part.

68 General

For the purposes of section 45 (1) (b) of the Act, this Part sets out when this Plan may be amended, and any such amendment is taken to be authorised by this Plan.

69 Amendments relating to Part 1

Part 1 may be amended to add, modify or remove a river or segment of river to or from the water source provided that:

- (a) any amendment is consistent with any applicable regulated river order, and
- (b) the Minister is satisfied that there will be no impact on the water available to the environment under Divisions 1 and 2 of Part 10, or to any access licence in the water source.

70 Amendments relating to Part 2

Part 2 may be amended following a review of the monitoring, evaluation and reporting plan that has been developed for water sources in the Lachlan surface water resource plan area which considers the need for alternate performance indicators for the environmental, economic, Aboriginal cultural, and social and cultural objectives of this Plan.

71 Amendments relating to Part 6

- (1) Division 3 of Part 6 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limits for the water source, the Belubula Regulated River Water Source and the Lachlan Unregulated River Water Sources.
- (2) The Minister may amend clause 38 to provide available water determination provisions for regulated river (conveyance) access licences that reflect the loss of water that occurs between the points of offtake of water from the water source and the points of delivery to water users within the Jemalong Irrigation Limited area of operation, if, in the Minister's opinion, it is necessary to do so to prevent third party impacts from dealings that manipulate future regulated river (conveyance) access licence water allocations.

72 Amendments relating to Part 8

Part 8 may be amended to provide account management rules for regulated river (conveyance) access licences that reflect the loss of water that occurs between the points of offtake of water from the water source and the points of delivery to water users within the Jemalong Irrigation Limited area of operation, if, in the Minister's opinion, it is necessary to do so to prevent third party impacts from dealings that manipulate future regulated river (conveyance) access licence water allocations.

73 Amendments relating to Part 9

- (1) Subject to subclause (2), Part 9 may be amended to remove or reduce the prohibitions on dealings specified under clauses 47 (1) (c) and 49 (1) (a).
- (2) Before amending clauses 47 (1) (c) and 49 (1) (a), the Minister is to consult with relevant Government agencies and stakeholders.
- (3) The access licence dealing rules may be amended to provide for the conversion of regulated river (high security) access licences to access licences in unregulated river water sources that are upstream of Wyangala Dam.

74 Amendments relating to floodplain harvesting

This Plan may be amended to include rules for the management of floodplain harvesting.

Note. *Floodplain harvesting* is defined in the Dictionary.

75 Amendment relating to individual daily extraction components

This Plan may be amended to include provisions to establish and manage individual daily extraction components of access licences.

76 Dictionary

The Dictionary may be amended to add, modify or remove a definition.

77 Other amendments (general)

- (1) This Plan may be amended to include provisions for the following:
 - (a) the interception of water before it reaches a stream or aquifer by plantations or other means,
 - (b) the management of salt interception schemes,
 - (c) water return flows, as referred to in Division 5 of Part 2 of Chapter 3 of the Act,
 - (d) the conversion of regulated river (high security) licences with share components that specify the water source to access licences with share components that specify connected upstream unregulated river water sources.

- (2) 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.
- (3) This Plan may be amended to facilitate total extractions reaching the long-term average annual extraction limit or long-term average sustainable diversion limit, subject to:
 - (a) an assessment of compliance with the limits made under Part 6 verifying that total extractions are less than those limits over the long term,
 - (b) a review and report on the reasons for total extractions being less than the limits over the long term, including recommendations for potential changes to this Plan to increase extractions to the limits and assessment of the impacts of the recommendations on future water allocations to all categories of water access licences, and
 - (c) there being no net reduction in the protection of planned environmental water established under Part 4 of this Plan.

Note. Section 10.28 of the Basin Plan requires that a water resource plan must ensure there is no net reduction in the protection of planned environmental water from the protection provided under State water management law immediately before the commencement of the Basin Plan.

- (4) This Plan may be amended to enable all or part of this Plan to be accredited as all or part of a water resource plan under the *Water Act 2007* of the Commonwealth.
- (5) This Plan may be amended to do any of the following for the protection of water-dependent Aboriginal cultural assets:
 - (a) identify water-dependent Aboriginal cultural assets,
 - (b) establish rules for the granting and amending of water supply work approvals,
 - (c) establish dealing rules.
- (6) An amendment authorised by this Plan is taken to include any consequential amendments to this Plan required to give effect to that particular amendment.
- (7) This Plan may be amended as a result of any future enlargement of Wyangala Dam.
- (8) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

[46] Dictionary

Omit the Dictionary. Insert instead –

Dictionary

Aboriginal person has the same meaning as it has in section 4 of the *Aboriginal Land Rights Act 1983*.

active storage means the total volume of water in storage minus the volume of water that is not able to be physically released through the storage’s outlet structures, known as dead storage.

Note. At the commencement of this Plan, dead storage in Lake Brewster is estimated to be approximately 2,000 ML.

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.

airspace means the water storage capacity that is kept empty for the purpose of mitigating potential floods.

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.

EWA means an environmental water allowance referred to in Part 10, as relevant.

floodplain harvesting means the collection, extraction or impoundment of water flowing across the floodplain, including rainfall runoff and overbank flow, excluding the take of water pursuant to any of the following:

- (a) a water access licence other than a floodplain harvesting access licence,
- (b) a basic landholder right,
- (c) an exemption from the need to hold a licence to take water under the Act.

flow regimes mean, collectively, the magnitudes, durations, frequency and patterns of flows that characterise a river or water source.

full supply volume means the volume of water held in a water storage at the storage level considered to be the limit for the purposes of storage of water, except in periods of flood operation.

Lachlan surface water SDL resource unit has the same meaning as provided for in section 6.02 of the Basin Plan.

Minister means the Minister administering the Act.

ML means megalitres.

Murray-Darling Basin Agreement means the Murray-Darling Basin Agreement as set out in Schedule 1 of the *Water Act 2007* of the Commonwealth (as in force from time to time, unless the context otherwise provides).

natural flow means a flow that occurs in a watershed or waterbody under natural unregulated conditions.

NSW Environmental Water Manager means the NSW Government department or agency whose responsibility it is to manage licensed environmental water that is held by the NSW Government.

Note. This is the NSW Department of Planning and Environment – Office of Environment and Heritage (OEH).

operator means the operator of the water supply system for the water source.

Note. As at the commencement of this Plan, this is Water NSW.

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

replenishment flows means flows provided to unregulated river systems downstream of major headwater dams to address the flow related impacts within those systems caused by dam construction.

reserves means the volumes of water put aside in a water storage to provide for future water requirements.

SDL adjustment amount has the meaning as it has in section 1.07 of the Basin Plan.

supply capability means the rate at which the Minister determines water can be supplied to a segment of the water source without incurring unacceptable transmission losses.

target ecological populations are 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.

transmission losses means the additional water required to ensure that a specified quantity of water is delivered to a specified delivery point.

water source is as defined in clause 4.

water storage means a state-owned dam, weir or other structure that is used to regulate and manage river flows in the water source and the water body impounded by this structure.

water supply system means the water storages and all other infrastructure that can influence water supply controlled by the operator, including regulators and weirs.

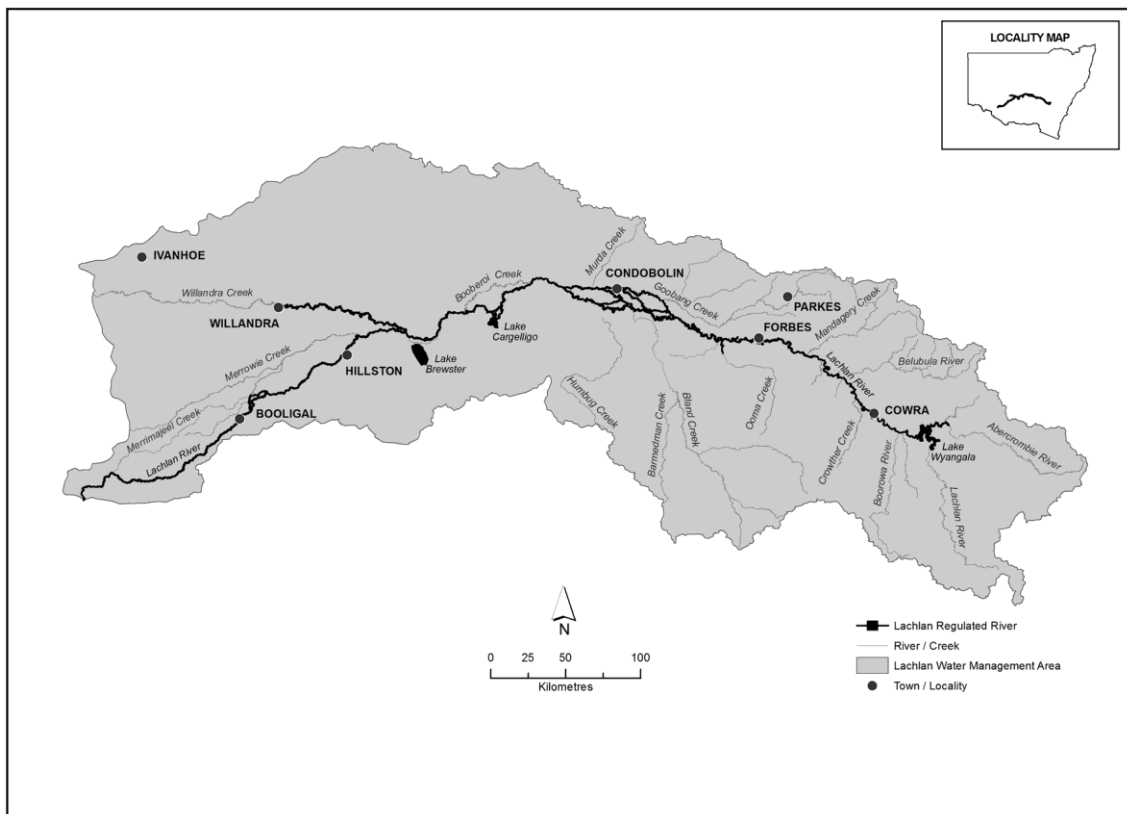
water use development means all privately-owned water management structures, and all aspects of farm, industry, town or private household development that affect the volumes of water taken from the water source, and the management practices that are applied in relation to them.

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

[47] **Appendix 1 Rivers and lakes in the regulated river order**

Omit the Appendix. Insert instead—

Appendix 1 Overview map of the Lachlan Regulated River Water Source



[48] **Appendix 2**

Omit the Appendix.

[49] **Appendix 3**

Omit the Appendix.