



New South Wales

Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023

under the

Water Management Act 2000

I, the Minister for Lands and Water, make the following plan under the *Water Management Act 2000*, section 50.

Dated 1 March 2023

KEVIN ANDERSON, MP
Minister for Lands and Water

Contents

Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023	5
Part 1 Introduction	5
1 Name of Plan	5
2 Commencement	5
3 Water sources to which Plan applies	5
4 Management zones to which Plan applies	6
5 Extraction management units established by Plan—the Act, s 20(2)(a)	6
6 Interpretation	7
7 Maps	7
Part 2 Vision, objectives, strategies and performance indicators	8
8 Vision statement—the Act, s 35(1)(a)	8
9 Objectives of Plan—the Act, s 35(1)(b)	8
10 Strategies for reaching objectives—the Act, s 35(1)(c)	8
11 Performance indicators—the Act, s 35(1)(d)	9
Part 3 Requirements for water	10
Division 1 Requirements for water to satisfy basic landholder rights—the Act, s 20(1)(b)	10
12 Domestic and stock rights	10
13 Native title rights	10
14 Harvestable rights	11
Division 2 Requirements for water for extraction under access licences	11
15 Share components of access licences in the water sources—the Act, s 20(1)(c)	11
Part 4 Limits to the availability of water	13
Division 1 Available water determinations—the Act, s 20(2)(b)	13
16 Available water determinations	13
Division 2 Extraction limits—the Act, s 20(1)(e)	13
Subdivision 1 Preliminary	13
17 Operation of Division—the Act, s 8	13
18 Definitions	13
Subdivision 2 Standard LTAAELs	14
19 Establishment of standard LTAAELs	14
20 Calculation of annual standard extraction	14
21 Assessment of compliance with standard LTAAELs	14
22 Compliance with standard LTAAELs	15
Subdivision 3 Annual higher flow extraction limits	15
23 Establishment of annual higher flow extraction limit	15
24 Calculation of annual higher flow extraction	15
25 Assessment of compliance with annual higher flow extraction limits	15
26 Compliance with annual higher flow extraction limits	16
Subdivision 4 Total daily extraction limits	16
27 Total daily extraction limits for certain water sources and categories of access licences	16
Part 5 Rules for granting and managing access licences—the Act, s 20(2)(b)	17
28 Specific purpose access licences	17
29 Management of access licences	18

Part 6	Operation of water allocation accounts and managing access licences	19
	Division 1 Preliminary	19
	30 Operation of Part—the Act, s 8	19
	Division 2 Accounting for water allocation accounts—the Act, s 21(c)	19
	31 Water allocation account debiting	19
	32 Carryover of water remaining in water allocation account	19
	Division 3 Flow classes	20
	33 Flow classes for specified water sources and management zones—the Act, s 21(a)	20
	34 Minister may determine flow classes in certain circumstances	20
	Division 4 Access rules for take of surface water—the Act, s 21(a)	20
	35 General	20
	36 Specific access rules	20
	37 Exceptions	21
	Division 5 Access rules for take of groundwater—the Act, s 21(a)	21
	37A Application of Division	21
	38 General	22
	39 Specific access rules	22
	40 Exceptions	22
Part 7	Construction and use of water supply works—the Act, s 21(b)	24
	Division 1 Preliminary	24
	41 Application of Part	24
	Division 2 Water supply works taking surface water	24
	42 In-river dams	24
	43 Wetlands	24
	Division 3 Water supply works taking groundwater	24
	44 Replacement groundwater works	24
	45 Interference between water supply works	25
	46 Contamination sources	26
	47 High priority groundwater-dependent ecosystems	26
	48 Potential acid sulfate soils	27
	49 Groundwater-dependent culturally significant areas	27
	50 Water supply works used only for basic landholder rights	27
	Division 3A Water supply work approvals	28
	50A Granting water supply work approvals	28
Part 8	Access licence dealing rules—the Act, s 20(1)(d)	29
	51 Conversion of access licence to new category dealings	29
	52 Assignment of rights dealings	29
	53 Amendment of share component dealings—change of water source	30
	54 Amendment of extraction component dealings	31
	55 Assignment of water allocations dealings	31
	56 Interstate access licence transfer and assignment of water allocations dealings prohibited	32
	57 Prohibited nominations of water supply works dealings	32
Part 9	Mandatory conditions—the Act, s 17(c)	34
	Division 1 General	34
	58 Definitions	34

Division 2 Access licences	34
59 General conditions	34
60 Record-keeping conditions	34
Division 3 Water supply work approvals	35
61 General conditions	35
62 Record-keeping conditions	35
63 Metering conditions	36
Division 4 Water supply work approvals for groundwater	36
64 Application of Division	36
65 Water supply work construction conditions	36
66 Water quality condition	37
67 Water bore decommissioning condition	38
Part 10 Amendment of this Plan—the Act, s 17(d)	39
68 Amendments	39
Schedule 1 Flow classes	41
Schedule 2 Access licences used to take surface water that are exempt from cease to pump rules	43
Schedule 3 Access licences subject to cease-to-take condition	44
Schedule 4 Contamination sources	
Schedule 5 Dictionary	45

Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023

under the

Water Management Act 2000

Part 1 Introduction

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

1 Name of Plan

This Plan is the Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023.

2 Commencement

This Plan commences on 1 July 2023.

3 Water sources to which Plan applies

This Plan applies to the following water sources (*the water sources*) identified on the Plan Map, being water sources within the South East Water Management Area—

- (a) Bondi Lake and Tributaries Water Source,
- (b) Curalo Lake and Tributaries Water Source,
- (c) Eden Tributaries Water Source,
- (d) Far South Coast Water Source,
- (e) Green Cape Water Source,
- (f) Jingo Creek Water Source,
- (g) Lower Towamba River Water Source,
- (h) Mataganah Creek Water Source,
- (i) Merimbula Creek Water Source,
- (j) Merimbula Lake Tributaries Water Source,
- (k) Myrtle Creek Water Source,
- (l) Nullica River Water Source,
- (m) Pambula Lake Tributaries Water Source,
- (n) Pericoe Creek Water Source,
- (o) Sandy Beach Creek Water Source,
- (p) Stockyard Creek Water Source,
- (q) Towamba Estuary Tributaries Water Source,
- (r) Towamba River Coastal Floodplain Alluvial Groundwater Source,
- (s) Tura Beach Tributaries Water Source,
- (t) Upper Towamba River Water Source,
- (u) Wallagoot Lake and Tributaries Water Source,

- (v) Wog Wog River Water Source,
- (w) Wonboyn River Water Source.
- (2) The water sources, other than the Towamba River Coastal Floodplain Alluvial Groundwater Source, include—
 - (a) surface water and water occurring on the surface of the ground in estuaries, and
 - (b) all groundwater contained in unconsolidated sediments, other than water to which the Water Sharing Plan for the South Coast Groundwater Sources 2016 applies.
- (3) The Towamba River Coastal Floodplain Alluvial Groundwater Source—
 - (a) includes all groundwater contained in unconsolidated sediments, and
 - (b) does not include surface water.
- (4) The water sources do not include water contained in fractured or porous rocks.

4 Management zones to which Plan applies

[Not applicable]

Note— When this Plan was made, there were no management zones.

5 Extraction management units established by Plan—the Act, s 20(2)(a)

The following extraction management units are established—

- (a) the Pambula River Extraction Management Unit, consisting of the following water sources—
 - (i) Bondi Lake and Tributaries Water Source,
 - (ii) Curalo Lake and Tributaries Water Source,
 - (iii) Eden Tributaries Water Source,
 - (iv) Merimbula Creek Water Source,
 - (v) Merimbula Lake Tributaries Water Source,
 - (vi) Nullica River Water Source,
 - (vii) Pambula Lake Tributaries Water Source,
 - (viii) Sandy Beach Creek Water Source,
 - (ix) Tura Beach Tributaries Water Source,
 - (x) Wallagoot Lake and Tributaries Water Source,
- (b) the Towamba River Coastal Floodplain Alluvial Groundwater Extraction Management Unit, consisting of the Towamba River Coastal Floodplain Alluvial Groundwater Source,
- (c) the Towamba River Extraction Management Unit, consisting of the following water sources—
 - (i) Jingo Creek Water Source,
 - (ii) Lower Towamba River Water Source,
 - (iii) Mataganah Creek Water Source,
 - (iv) Myrtle Creek Water Source,
 - (v) Pericoe Creek Water Source,
 - (vi) Stockyard Creek Water Source,

- (vii) Towamba Estuary Tributaries Water Source,
- (viii) Upper Towamba River Water Source,
- (ix) Wog Wog River Water Source,
- (d) the Wonboyn-Merrica Rivers Catchment Extraction Management Unit, consisting of the following water sources—
 - (i) Far South Coast Water Source,
 - (ii) Green Cape Water Source,
 - (iii) Wonboyn River Water Source.

6 Interpretation

- (1) The Dictionary in Schedule 5 defines words used in this Plan.

Note— The Interpretation Act 1987 contains definitions and other provisions affecting the interpretation and application of this Plan.

- (2) Unless otherwise specified in this Plan, a category of an access licence includes a reference to a subcategory of the access licence.

7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name kept and made available for public access in accordance with arrangements approved by the Minister.

Note— The following maps adopted by this Plan are available on the Department's website—

- (a) the Plan Map,
 - (b) the High Priority Groundwater-Dependent Ecosystem Map.
- (2) A map that amends or replaces a map adopted by this Plan has effect only if this Plan is amended to give effect to it.

Part 2 Vision, objectives, strategies and performance indicators

8 Vision statement—the Act, s 35(1)(a)

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

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

9 Objectives of Plan—the Act, s 35(1)(b)

The objectives of this Plan are as follows—

- (a) to protect and, where possible, enhance and restore the condition of the water sources and their water-dependent ecosystems,
- (b) to maintain and, where possible, improve access to water to optimise economic benefits for agriculture, water-dependent industries and local economies,
- (c) to maintain and, where possible, improve the spiritual, social, customary and economic values and uses of water by Aboriginal people,
- (d) to provide access to water to support water-dependent social and cultural values,
- (e) to help prevent structural damage to aquifers resulting from groundwater extraction.

10 Strategies for reaching objectives—the Act, s 35(1)(c)

- (1) The strategies for reaching the objectives of this Plan include the following—
 - (a) reserve all water in excess of each long-term average annual extraction limit for the environment,
 - (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water sources,
 - (c) restrict the take of water from an in-river pool when the volume of water in the pool is less than the volume of water that can be held by the pool when at full capacity,
 - (d) reserve a portion of natural flows to maintain hydrological connectivity between the water sources and other connected water sources, including connectivity between tidal pools and estuaries,
 - (e) manage the construction and use of water supply works to minimise impacts on in-stream ecosystems, high priority groundwater-dependent ecosystems and groundwater quality, groundwater-dependent culturally significant areas, basic landholder rights and town water supply,

- (f) restrict or prevent water supply work approvals on third order or higher streams within specified water sources,
 - (g) provide for trade of water allocations and share components subject to environmental constraints and local impacts,
 - (h) provide a stable and predictable framework for sharing water among water users,
 - (i) provide for flexibility of access to water,
 - (j) manage access to water consistently with the exercise of native title rights and domestic and stock rights,
 - (k) provide for water associated with Aboriginal cultural values and uses, and community development.
- (2) Each strategy may contribute to achieving one or more of the objectives of this Plan.

11 Performance indicators—the Act, s 35(1)(d)

- (1) The performance indicators used to measure the success of the strategies for reaching the objectives of this Plan are the changes or trends, during the term of this Plan, in the following—
- (a) the ecological condition of the water sources,
 - (b) economic benefits,
 - (c) Aboriginal cultural benefits,
 - (d) social and cultural benefits.
- (2) The performance indicators must be monitored and evaluated in the way approved by the Minister.

Part 3 Requirements for water

Division 1 Requirements for water to satisfy basic landholder rights— the Act, s 20(1)(b)

12 Domestic and stock rights

On the commencement of this Plan, the amount of water required to satisfy domestic and stock rights is estimated to be 1,213.6ML/year distributed as follows—

- (a) 2ML/year in the Bondi Lake and Tributaries Water Source,
- (b) 14.5ML/year in the Curalo Lake and Tributaries Water Source,
- (c) 11.5ML/year in the Eden Tributaries Water Source,
- (d) 2ML/year in the Far South Coast Water Source,
- (e) 2ML/year in the Green Cape Water Source,
- (f) 35.3ML/year in the Jingo Creek Water Source,
- (g) 121.3ML/year in the Lower Towamba River Water Source,
- (h) 132ML/year in the Mataganah Creek Water Source,
- (i) 29.3ML/year in the Merimbula Creek Water Source,
- (j) 41.8ML/year in the Merimbula Lake Tributaries Water Source,
- (k) 273.6ML/year in the Myrtle Creek Water Source,
- (l) 15.1ML/year in the Nullica River Water Source,
- (m) 226.3ML/year in the Pambula Lake Tributaries Water Source,
- (n) 15.7ML/year in the Pericoe Creek Water Source,
- (o) 18.1ML/year in the Sandy Beach Creek Water Source,
- (p) 24.4ML/year in the Stockyard Creek Water Source,
- (q) 10.1ML/year in the Towamba Estuary Tributaries Water Source,
- (r) 18ML/year in the Towamba River Coastal Floodplain Alluvial Groundwater Source,
- (s) 6ML/year in the Tura Beach Tributaries Water Source,
- (t) 131.4ML/year in the Upper Towamba River Water Source,
- (u) 27.9ML/year in the Wallagoot Lake and Tributaries Water Source,
- (v) 31.5ML/year in the Wog Wog River Water Source,
- (w) 23.8ML/year in the Wonboyn River Water Source.

13 Native title rights

On the commencement of this Plan, no determinations of native title had been made in relation to the water sources.

Note— A native title holder is entitled to take water in the exercise of native title rights without the need for an access licence —see the Act, section 55.

14 Harvestable rights

On the commencement of this Plan, the amount of water required to satisfy harvestable rights is estimated to be 2,057.8ML/year distributed as follows—

- (a) 20.8ML/year in the Curalo Lake and Tributaries Water Source,
- (b) 1.1ML/year in the Eden Tributaries Water Source,
- (c) 70.1ML/year in the Jingo Creek Water Source,
- (d) 250.2ML/year in the Lower Towamba River Water Source,
- (e) 112.4ML/year in the Mataganah Creek Water Source,
- (f) 5.1ML/year in the Merimbula Creek Water Source,
- (g) 128.9ML/year in the Merimbula Lake Tributaries Water Source,
- (h) 170.3ML/year in the Myrtle Creek Water Source,
- (i) 167.6ML/year in the Nullica River Water Source,
- (j) 268.2ML/year in the Pambula Lake Tributaries Water Source,
- (k) 2.1ML/year in the Pericoe Creek Water Source,
- (l) 35.4ML/year in the Sandy Beach Creek Water Source,
- (m) 0.8ML/year in the Stockyard Creek Water Source,
- (n) 505.1ML/year in the Towamba Estuary Tributaries Water Source,
- (o) 67.9ML/year in the Tura Beach Tributaries Water Source,
- (p) 123.6ML/year in the Upper Towamba River Water Source,
- (q) 53.1ML/year in the Wallagoot Lake and Tributaries Water Source,
- (r) 42.5ML/year in the Wog Wog River Water Source,
- (s) 32.6ML/year in the Wonboyn River Water Source,
- (t) 0ML/year in all other water sources.

Division 2 Requirements for water for extraction under access licences

15 Share components of access licences in the water sources—the Act, s 20(1)(c)

- (1) On the commencement of this Plan, the share components of domestic and stock access licences are estimated to be a total of 101.5ML/year distributed as follows—
 - (a) 1ML/year in the Green Cape Water Source,
 - (b) 15ML/year in the Lower Towamba River Water Source,
 - (c) 2ML/year in the Mataganah Creek Water Source,
 - (d) 38ML/year in the Myrtle Creek Water Source,
 - (e) 26ML/year in the Pambula Lake Tributaries Water Source,
 - (f) 5.5ML/year in the Sandy Beach Creek Water Source,
 - (g) 6ML/year in the Upper Towamba River Water Source,
 - (h) 4ML/year in the Wallagoot Lake and Tributaries Water Source,
 - (i) 4ML/year in the Wonboyn River Water Source,
 - (j) 0ML/year in all other water sources.

- (2) On the commencement of this Plan, the share components of local water utility access licences are estimated to be a total of 1,400ML distributed as follows—
- (a) 1,400ML/year in the Lower Towamba River Water Source,
 - (b) 0ML/year in all other water sources.
- (3) On the commencement of this Plan, the share components of unregulated river access licences are estimated to be a total of 2,300.5 unit shares distributed as follows—
- (a) 19 unit shares in the Green Cape Water Source,
 - (b) 38 unit shares in the Jingo Creek Water Source,
 - (c) 454 unit shares in the Lower Towamba River Water Source,
 - (d) 133 unit shares in the Mataganah Creek Water Source,
 - (e) 93 unit shares in the Merimbula Creek Water Source,
 - (f) 13 unit shares in the Merimbula Lake Tributaries Water Source,
 - (g) 105 unit shares in the Myrtle Creek Water Source,
 - (h) 810 unit shares in the Pambula Lake Tributaries Water Source,
 - (i) 34.5 unit shares in the Sandy Beach Creek Water Source,
 - (j) 356 unit shares in the Upper Towamba River Water Source,
 - (k) 180 unit shares in the Wog Wog River Water Source,
 - (l) 65 unit shares in the Wonboyn River Water Source,
 - (m) 0 unit shares in all other water sources.
- (4) [Not applicable]
- Note—** When this Plan was made, there were no unregulated river (high flow) access licences.
- (5) On the commencement of this Plan, the share components of aquifer access licences are estimated to be a total of 330 unit shares distributed as follows—
- (a) 6 unit shares in the Curalo Lake and Tributaries Water Source,
 - (b) 20 unit shares in the Mataganah Creek Water Source,
 - (c) 66 unit shares in the Myrtle Creek Water Source,
 - (d) 12 unit shares in the Nullica River Water Source,
 - (e) 27 unit shares in the Pambula Lake Tributaries Water Source,
 - (f) 30 unit shares in the Sandy Beach Creek Water Source,
 - (g) 70 unit shares in the Towamba Estuary Tributaries Water Source,
 - (h) 64 unit shares in the Upper Towamba River Water Source,
 - (i) 34 unit shares in the Wallagoot Lake and Tributaries Water Source,
 - (j) 1 unit share in the Wonboyn River Water Source,
 - (k) 0 unit shares in all other water sources.
- Note—** The total share components of access licences in the water sources may change during the term of this Plan as a result of—
- (a) the grant, surrender or cancellation of access licences in the water sources, or
 - (b) the variation of local water utility licences under the Act, section 66, or
 - (c) ongoing conversion of entitlements under the *Water Act 1912* to access licences under the Act, or
 - (d) amendments to access licences under the Act, section 68A.

Part 4 Limits to the availability of water

Division 1 Available water determinations—the Act, s 20(2)(b)

16 Available water determinations

- (1) The sum of available water determinations made for an access licence must not be more than the following in a water year—
 - (a) for an access licence specifying the share component in ML/year—100% of the access licence share component,
 - (b) for an access licence specifying the share component as a number of unit shares—1ML/unit share of the access licence share component.
- (2) At the start of each water year, available water determinations must be made as follows unless the Minister is of the opinion that a different available water determination is in the public interest—
 - (a) for domestic and stock access licences—100%,
 - (b) for local water utility access licences—100%,
 - (c) for unregulated river access licences—1ML/unit share,
 - (d) for unregulated river (high flow) access licences—1ML/unit share,
- (3) This section is subject to sections 22 and 26.

Note— When this Plan was made, there were no unregulated river (high flow) access licence.

- (e) for aquifer access licences—1ML/unit share.

Note— The Minister may, at any time, make available water determinations in relation to the availability of water for a category or subcategory of access licence—see the Act, section 59.

Division 2 Extraction limits—the Act, s 20(1)(e)

Subdivision 1 Preliminary

17 Operation of Division—the Act, s 8

For the Act, section 8(1A)(b) and (2), this Division—

- (a) sets out environmental water rules, and
- (b) commits water as planned environmental water by reference to the long-term average annual commitment of water resulting from compliance with the long-term average annual extraction limit.

18 Definitions

In this Division—

3-year average higher flow extraction means the average of the annual higher flow extractions for 3 consecutive water years most recently calculated for an extraction management unit.

3-year average standard extraction means the average of the annual standard extractions for 3 consecutive water years most recently calculated for an extraction management unit.

annual higher flow extraction means the sum of the volume of water taken from an extraction management unit under all higher flow extraction licences within the extraction management unit.

Note— The determination of the volume of water taken from each extraction management unit excludes water committed as licensed environmental water—see the Act, section 8F(5).

annual higher flow extraction limit means the annual higher flow extraction limit established by section 23.

annual standard extraction means the volume of water taken from an extraction management unit—

- (a) under an access licence, excluding extractions under a higher flow extraction licence, or
- (b) in the exercise of basic landholder rights.

Note— The determination of the volume of water taken from each extraction management unit excludes water committed as licensed environmental water—see the Act, section 8F(5).

higher flow extraction licence means the following—

- (a) an unregulated river (high flow) access licence,
- (b) an access licence of the subcategory Aboriginal community development,
- (c) an access licence subject to a condition with the effect of prohibiting the take of water unless flows are above the B Class,
- (d) a major utility access licence, but only in relation to the extraction of water from declared dams within the meaning of the *Dams Safety Act 2015*.

reduced available water determinations means available water determinations that are less than the amount specified in section 16(2) for the category of licence in relation to which the determination is made.

standard LTAAEL means a standard long-term average annual extraction limit established by section 19.

Subdivision 2 Standard LTAAELs

19 Establishment of standard LTAAELs

The standard LTAAELs are as follows—

- (a) for the Towamba River Coastal Floodplain Alluvial Groundwater Extraction Management Unit—202ML/year,
- (b) for the Pambula River Extraction Management Unit—3,406 ML/yr,
- (c) for the Towamba River Extraction Management Unit—7,135 ML/yr,
- (d) for the Wonboyn-Merrica Rivers Catchment Extraction Management Unit—341 ML/yr.

Note— The standard LTAAELs are taken to be varied by a change to the amount of water committed as licensed environmental water—see the Act, section 8F(2).

20 Calculation of annual standard extraction

As soon as practicable after the end of a water year, the annual standard extraction of each extraction management unit must be calculated for the water year.

21 Assessment of compliance with standard LTAAELs

- (1) As soon as practicable after the end of a water year, the 3-year average standard extraction for each extraction management unit must be compared against the standard LTAAEL for the extraction management unit for the water year.
- (2) In determining the standard LTAAEL for the water year, the following share components, if any, within the extraction management unit must be excluded from the standard LTAAEL—
 - (a) the share components of an access licence cancelled to grant a higher flow extraction licence after the commencement of this Plan,

- (b) the share components of an access licence cancelled after the commencement of this Plan if the licence is cancelled for an environmental purpose.
- (3) There is noncompliance with the standard LTAAEL if the 3-year average standard extraction exceeds the standard LTAAEL for the water year by 5% or more.

22 Compliance with standard LTAAELs

- (1) This section applies to an extraction management unit if there is non-compliance with the standard LTAAEL for the extraction management unit.
- (2) On 1 July in the water year occurring immediately after a non-compliance is assessed (the *next water year*), reduced available water determinations, which are likely to result in the extractions from the extraction management unit complying with the standard LTAAEL, must be made for one or both of the following categories of access licence—
 - (a) an unregulated river access licence,
 - (b) an aquifer access licence.
- (3) In the next water year, the total sum of all available water determinations made for the category of access licence for which a reduced available water determination is made under subsection (2) must be less than the amount specified for the category of access licence in section 16(1).

Note— The Minister may, at any time, make available water determinations in relation to the availability of water for a category or subcategory of access licence—see the Act, section 59.

Subdivision 3 Annual higher flow extraction limits

23 Establishment of annual higher flow extraction limit

The annual higher flow extraction limit is the largest sum of the share components of all higher flow extraction licences within the extraction management unit occurring within a water year.

Note— The annual higher flow extraction limits are taken to be varied by a change to the amount of water committed as licensed environmental water—see the Act, section 8F(2).

24 Calculation of annual higher flow extraction

As soon as practicable after the end of a water year, the annual higher flow extraction of each extraction management unit must be calculated for the water year.

25 Assessment of compliance with annual higher flow extraction limits

- (1) As soon as practicable after the end of a water year, the 3-year average higher flow extraction for each extraction management unit must be compared against the annual higher flow extraction limit for the extraction management unit.
- (2) In determining the annual higher flow extraction limit for the water year, the share components of an access licence must be excluded from the annual higher flow extraction limit if—
 - (a) the access licence was cancelled for an environmental purpose during the water year, and
 - (b) before its cancellation, the access licence was in the extraction management unit.
- (3) There is noncompliance with the annual higher flow extraction limit if the 3-year average higher flow extraction exceeds the limit by 5% or more.

26 Compliance with annual higher flow extraction limits

- (1) This section applies to an extraction management unit if there is noncompliance with the annual higher flow extraction limit for the extraction management unit.
- (2) On 1 July in the water year occurring immediately after a noncompliance is assessed (the *next water year*), reduced available water determinations must be made for one or more of the following categories of licences—
 - (a) an unregulated river (high flow) access licence,
 - (b) an Aboriginal community development access licence,
 - (c) a higher flow extraction licence.
- (3) In the next water year, the total sum of all available water determinations made for the category of access licence for which a reduced available water determination is made under subsection (2) must be less than the amount specified for the category of access licence in section 16(1).

Note— The Minister may, at any time, make available water determinations in relation to the availability of water for a category or subcategory of access licence—see the Act, section 59.

Subdivision 4 Total daily extraction limits

27 Total daily extraction limits for certain water sources and categories of access licences

[Not applicable]

Part 5 Rules for granting and managing access licences—the Act, s 20(2)(b)

28 Specific purpose access licences

- (1) An application for a specific purpose access licence must not be made unless the share and extraction components of the access licence are the minimum amount required for the proposed use.
- (2) A person may apply for the following specific purpose access licences—
 - (a) an unregulated river (Aboriginal community development) access licence in one of the following water sources if the sum of the share components of all unregulated river (Aboriginal community development) access licences in the water sources is no more than 306 unit shares—
 - (i) Jingo Creek Water Source,
 - (ii) Lower Towamba River Water Source,
 - (iii) Mataganah Creek Water Source,
 - (iv) Myrtle Creek Water Source,
 - (v) Upper Towamba River Water Source,
 - (vi) Wog Wog River Water Source,
 - (b) an aquifer (Aboriginal community development) access licence in the Towamba River Coastal Floodplain Alluvial Groundwater Source.

Note—A person may also apply for a specific purpose access licence in circumstances where the regulations provide that an application for the licence may be made—see the Act, section 61(1)(a).

- (3) An application for an aquifer (Aboriginal community development) access licence must not be made unless the total share components of all aquifer (Aboriginal community development) access licences in the water source is no more than 140ML/year.
- (4) A person may apply for a specific purpose access licence of the subcategory Aboriginal cultural if—
 - (a) the share component of the licence is no more than 10ML/year, and
 - (b) the licence is only for the taking of water by an Aboriginal person or Aboriginal community for personal, domestic or communal purposes, including the following—
 - (i) drinking and food preparation,
 - (ii) washing,
 - (iii) manufacturing traditional artefacts,
 - (iv) watering domestic gardens,
 - (v) cultural teaching,
 - (vi) hunting, fishing and gathering,
 - (vii) recreational, cultural and ceremonial purposes.

- (5) In this section—

Aboriginal person has the same meaning as in the Aboriginal Land Rights Act 1983.

29 Management of access licences

- (1) This section applies to an access licence affected by a change to the boundary of a water source or water management area to which this Plan applies, whether the change is made on the commencement of this Plan or as an amendment to this Plan.
- (2) The Minister may amend the share component or extraction component, or both, of an access licence to which this section applies to change the following—
 - (a) the water management area or water source to which the share component of the licence relates,
 - (b) the management zones from which water may be taken in accordance with the extraction component of the licence.

Part 6 Operation of water allocation accounts and managing access licences

Division 1 Preliminary

30 Operation of Part—the Act, s 8

For the Act, section 8(1A)(a) and (c) and (2), this Part—

- (a) sets out environmental water rules, and
- (b) in Divisions 2–5—commits water as planned environmental water by reference to the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met, and
- (c) in Divisions 3–5—commits water as planned environmental water by reference to the commitment of the physical presence of water in the water source.

Division 2 Accounting for water allocation accounts—the Act, s 21(c)

31 Water allocation account debiting

- (1) The Minister must debit from the water allocation account of an access licence the volume of water extracted by a water supply work nominated by the access licence.
- (2) The volume of water debited from the water allocation account of an access licence must not be more than the relevant sum during a period of 3 consecutive water years.
- (3) In this section—

debited means taken, assigned under the Act, section 71T or otherwise debited or withdrawn from a water allocation account.

relevant sum means the sum of the following—

- (a) the water allocations credited to the water allocation account from available water determinations made during those 3 water years,
- (b) the amount of water allocations assigned to the water allocation account under the Act, section 71T or 71V,
- (c) the water allocations recredited to the water allocation account under the Act, section 76.

32 Carryover of water remaining in water allocation account

Water allocations remaining in the water allocation account—

- (a) for an access licence in the Towamba River Coastal Floodplain Alluvial Groundwater Source —must not be carried over from one water year to the next water year, or
- (b) otherwise—must be carried over from one water year to the next water year up to an amount equal to the following—
 - (i) for access licences with share components expressed as ML/year— 100% of the share component,
 - (ii) for access licences with share components expressed as a number of unit shares—1ML/unit share.

Division 3 Flow classes

33 Flow classes for specified water sources and management zones—the Act, s 21(a)

- (1) This Plan establishes the flow classes set out in Schedule 1 for the water sources specified.
- (2) In Schedule 1, the flow class applies to a water source when the water source flow meets the flow specified under the flow class threshold for the water source as observed at the flow reference point specified.

34 Minister may determine flow classes in certain circumstances

- (1) If the Minister is satisfied that accurate flow data is not available from a gauge used to determine a flow class, the Minister may determine the flow class.
- (2) If the Minister determines a flow class, the Minister must cause a notice to be published on the Department's website specifying the following—
 - (a) the flow class and flow class threshold determined by the Minister,
 - (b) the water source and management zone, if any, to which the flow class applies,
 - (c) the day on which the flow class applies.
- (3) In determining the flow class, the Minister may consider the following—
 - (a) evidence of past and current flows,
 - (b) readings at other functioning upstream and downstream gauges.
- (4) A flow class published in a notice under this section is taken to be a flow class established by this Plan.

Division 4 Access rules for take of surface water—the Act, s 21(a)

35 General

- (1) Surface water must not be taken if there is no visible flow at the location from which the water is taken, except from the following locations:
 - (a) an in-river pool, or
 - (b) an off-river pool, or
 - (c) an in-river dam pool.
- (2) Surface water must not be taken from—
 - (a) an in-river pool that is below full capacity, or
 - (b) an off-river pool that is below full capacity, or
 - (c) an in-river dam pool unless the take is not inconsistent with a water supply work approval authorising the use of a water supply work for the purpose of taking water from the in-river dam.

36 Specific access rules

- (1) Surface water must not be taken from the following water sources if flows are in the Very Low Flow Class or, on a rising river, the A Class—
 - (a) Jingo Creek Water Source,
 - (b) Lower Towamba River Water Source,
 - (c) Mataganah Creek Water Source,
 - (d) Myrtle Creek Water Source,

- (e) Pambula Lake Tributaries Water Source,
 - (f) Upper Towamba River Water Source,
 - (g) Wog Wog River Water Source.
- (2) Surface water must not be taken under an unregulated river (high flow) access licence or an unregulated river (Aboriginal community development) access licence unless flows are in the C Class.

37 Exceptions

- (1) Section 35(2)(b) does not apply to the take of surface water from an off-river pool subject to a cease-to-take condition that permits the taking of water when the off-river pool is below full capacity.
- (2) Sections 35 and 36 do not apply to the take of surface water in the following circumstances—
- (a) for the following purposes under an access licence specified in Schedule 2, Table A if no more than 20kl/day or a lower amount specified by the Minister is taken—
 - (i) fruit and vegetable washing,
 - (ii) cleaning of dairy plant and equipment for hygiene purposes,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (b) for domestic consumption under a domestic and stock access licence if no more than 1kl/day for each household supplied by the access licence is taken,
 - (c) from a runoff harvesting dam,
 - (d) under an access licence specified in Schedule 2, Table B until, in the Minister’s opinion, major augmentation of the access licence holder’s water supply system occurs,
 - (e) under an access licence in relation to an aquifer interference activity for which a planning approval is in force if—
 - (i) the licence holder complies with the water management plans, if any, required under the planning approval in relation to the aquifer interference activity, and
 - (ii) in the Minister’s opinion, the licence holder is not reasonably capable of complying with the access rule concerned.
- (3) Section 36 does not apply to the take of surface water in the following circumstances—
- (a) from an in-river dam pool or off-river pool in a water source or management zone to which that section applies,
 - (b) under an access licence or water supply work approval arising from a former entitlement subject to a cease-to-take condition specified in Schedule 3.

Division 5 Access rules for take of groundwater—the Act, s 21(a)

37A Application of Division

This Division does not apply to the Towamba River Coastal Floodplain Alluvial Groundwater Source.

38 General

Groundwater must not be taken in the following circumstances—

- (a) if there is no visible flow in the river at the location closest to the water supply work being used to take groundwater,
- (b) if the location closest to the water supply work being used to take groundwater is a pool that is below full capacity,
- (c) if flows in the water source are in the Very Low Flow Class or, on a rising river, the A Class.

39 Specific access rules

Groundwater must not be taken from the Lower Towamba River Water Source under a local water utility access licence held by Bega Valley Shire Council when flows are in—

- (a) the Very Low Flow Class, unless the total volume of water taken is no more than—
 - (i) if Ben Boyd Dam is at 50% capacity or more—1ML/day, or
 - (ii) if Ben Boyd Dam is at less than 50% capacity—2.5ML/day, or
- (b) the A Class if there is no visible flow in the river downstream of the Kiah borefield, unless the total volume of water taken is no more than 1ML/day.

40 Exceptions

- (1) Section 38 does not apply to the take of groundwater in the following circumstances—
 - (a) for the following purposes under an access licence specified in Schedule 2, Table A if no more than 20kl/day or a lower amount specified by the Minister is taken—
 - (i) fruit and vegetable washing,
 - (ii) cleaning of dairy plant and equipment for hygiene purposes,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (b) for domestic consumption under a domestic and stock access licence if no more than 1kl/day for each household supplied by the access licence is taken,
 - (c) under an access licence specified in Schedule 2, Table B until, in the Minister's opinion, major augmentation of the access licence holder's water supply system occurs,
 - (d) under an access licence in relation to an aquifer interference activity for which a planning approval is in force if—
 - (i) the licence holder complies with a water management plan, if any, required under the planning approval in relation to the aquifer interference activity, and
 - (ii) in the Minister's opinion, the licence holder is not reasonably capable of complying with the access rule concerned,
 - (e) using a water supply work that is not located within 40 metres from the top of the high bank of a river,
 - (f) under an access licence or water supply work approval arising from a former entitlement subject to a cease-to-take condition specified in Schedule 3,

- (g) under a local water utility access licence held by Bega Valley Shire Council from the Lower Towamba River Water Source.
- (2) Section 39 does not apply to the take of groundwater from the Lower Towamba River Water Source under access licence 30172 if the Minister has provided written notice to Bega Valley Shire Council that the Minister is satisfied the water must be taken because of an emergency preventing the use of Ben Boyd Dam, including an algae bloom or contamination.

Part 7 Construction and use of water supply works—the Act, s 21(b)

Note— An approval must not be granted in contravention of this Part—see the Act, section 95(3). An application to amend an approval relating to additional uses, works, activities or land must be assessed and determined in the same way as an application for a new approval, but only in relation to the additional uses, works, activities or land—see the Act, section 107(5). This does not affect works that can be constructed under a basic landholder right.

Division 1 Preliminary

41 Application of Part

- (1) Division 2 applies to a water supply work used to take surface water.
- (2) Division 3 applies to a water supply work used to take groundwater.
- (3) Division 3A applies to a water supply work used to take surface water or groundwater.
- (4) In this Part, a reference to a water supply work located within a specified distance includes a reference to a water supply work proposed to be located within a specified distance.

Division 2 Water supply works taking surface water

42 In-river dams

An in-river dam on a third order or higher stream must not be constructed within the water source.

43 Wetlands

A water supply work must not be constructed on land within the following areas unless, in the Minister's opinion, there will be no more than minimal harm to the wetland concerned—

- (a) within 3km upstream of, or within, a declared Ramsar wetland,
- (b) within 200m upstream of, or within, coastal wetlands.

Division 3 Water supply works taking groundwater

44 Replacement groundwater works

- (1) In this Division, replacement groundwater work means a water supply work that—
 - (a) replaces a water supply work authorised by a water supply work approval (the *replaced water supply work*), and
 - (b) is constructed to extract water—
 - (i) from the same water source as the replaced water supply work, and
 - (ii) from the same depth as the replaced water supply work, and
 - (c) is located—
 - (i) within 20m of the replaced water supply work, and
 - (ii) if the replaced water supply work is located within 40m of the top of the high bank of a river—at the same or a further distance from the top of the high bank of the river, and
 - (d) has an internal diameter or excavation footprint the same as or less than the replaced water supply work unless—

- (i) if the replaced water supply work is no longer manufactured—the internal diameter of the water supply work will not exceed 120% of the internal diameter of the replaced water supply work, or
 - (ii) if the internal diameter of the replaced water supply work is less than 100mm—the internal diameter of the water supply work will not exceed 100mm.
- (2) A water supply work that does not meet the requirements in subsection (1)(b)(ii) or (c)(i) is taken to be a replacement groundwater work if, in the Minister’s opinion, the water supply work is not likely to—
 - (a) result in a greater adverse impact than the replaced water supply work on the following—
 - (i) a water source,
 - (ii) a high priority groundwater-dependent ecosystem,
 - (iii) public health and safety,
 - (iv) a groundwater-dependent culturally significant area, and
 - (b) adversely affect the ability of another person to take water using an existing water supply work.

- (3) In this section—

excavation footprint means the authorised dimensions of an unlined excavation constructed for the purposes of water supply only.

internal diameter means the diameter of the inside of the casing of a water bore.

45 Interference between water supply works

- (1) A water supply work must not be constructed on land within the following areas—
 - (a) 200m of a water supply work—
 - (i) located on another landholding, and
 - (ii) authorised to take water solely for basic landholder rights from the same water source,
 - (b) 200m of a water supply work—
 - (i) located on another landholding, and
 - (ii) nominated by another access licence to take water from the same water source,
 - (c) 100m of the boundary of the landholding on which the water supply work is located unless the owner of the landholding adjoining the boundary has provided written consent,
 - (d) 500m of a water supply work nominated by a local water utility access licence or a major utility access licence authorised to take water from the same water source unless the holder of the licence has provided written consent,
 - (e) 100m of a water supply work that is a Government monitoring or observation bore.
- (2) Subsection (1) does not apply if—
 - (a) the water supply work is used only for basic landholder rights, or

- (b) the water supply work is a replacement groundwater work, or
- (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services, or
- (d) in the Minister’s opinion, the location of the water supply work from an existing water supply work at a lesser distance than that specified in subsection (1) would result in no more than a minimal detrimental effect on the water available for take using an existing water supply work.

46 Contamination sources

- (1) A water supply work must not be constructed on land within the following areas—
 - (a) 500m of a contamination source,
 - (b) 250m of the edge of a plume associated with a contamination source,
 - (c) between 250m and 500m from the edge of a plume associated with a contamination source unless no change in groundwater level will occur within 250m of the plume.
- (2) Subsection (1) does not apply if, in the Minister’s opinion—
 - (a) the location of the water supply work is adequate to protect the water source, the environment, and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services.
- (3) A water supply work must not be constructed on land within 250m of an on-site sewage disposal system unless the water supply work is—
 - (a) constructed with cement grout in the borehole annulus to a minimum depth of 20m from the ground surface, and
 - (b) located at a sufficient distance from the on-site sewage disposal system to prevent migration of septic contamination in the aquifer.
- (4) The Minister may reduce the depth requirement in subsection (3)(a) if—
 - (a) adequate arrangements are in place to protect the water source, the environment, and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring and environmental remediation activities.
- (5) In this section—

contamination source means a contamination source specified in Schedule 4.

47 High priority groundwater-dependent ecosystems

- (1) A water supply work must not be constructed on land within the following areas—
 - (a) 40m of the top of the high bank of a river,
 - (b) 200m of a high priority groundwater-dependent ecosystem,
 - (c) 200m of a wetland,
 - (d) 500m of a karst,
 - (e) 200m of a spring.
- (2) Subsection (1) does not apply if—
 - (a) the water supply work is used only for basic landholder rights, or

- (b) the water supply work is a replacement groundwater work, or
 - (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services.
- (3) Subsection (1)(b) does not apply if, in the Minister’s opinion—
- (a) there is not a high probability of groundwater dependence for the ecosystem concerned, or
 - (b) the location of the water supply work is likely to cause no more than minimal harm to the high priority groundwater-dependent ecosystem concerned.
- (4) Subsection (1)(c)–(e) does not apply if, in the Minister’s opinion, the location of the water supply work is likely to cause no more than minimal harm to the wetland, karst or spring concerned.

48 Potential acid sulfate soils

- (1) A water supply work must not be constructed on land within an area classed as having a high probability of occurrence of acid sulfate soils on the Acid Sulfate Soil Risk Map.
- (2) Subsection (1) does not apply if there is not likely to be a significant risk of acidification of the water sources as a result of the construction and location of the water supply work.
- (3) In this section—

Acid Sulfate Soil Risk Map means an Acid Sulfate Soil Risk Map authorised by the Department and published on the Department’s website.

acid sulfate soils means naturally occurring sediments and soils containing iron sulphides, principally pyrite, or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulphuric acid, for example, by drainage or excavation.

49 Groundwater-dependent culturally significant areas

- (1) A water supply work must not be constructed on land within 200m of a groundwater-dependent culturally significant area.

Note— Groundwater-dependent culturally significant areas may be identified after the commencement of this Plan.

- (2) Subsection (1) does not apply if—
- (a) the water supply work is used only for basic landholder rights, or
 - (b) the water supply work is a replacement groundwater work, or
 - (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services, or
 - (d) the location of the water supply work at a lesser distance would result in no more than minimal harm to a groundwater-dependent culturally significant area.

50 Water supply works used only for basic landholder rights

- (1) A water supply work used only for basic landholder rights must not be constructed on land within the following areas—
- (a) 100m of a Government monitoring or observation bore,
 - (b) 40m of the top of the high bank of a river,
 - (c) 100m of a high priority groundwater-dependent ecosystem unless, in the Minister’s opinion—

- (i) there is not a high probability of groundwater dependence for the relevant ecosystem, and
 - (ii) the location of the water supply work is likely to cause no more than minimal harm to the high priority groundwater-dependent ecosystem,
 - (d) 100m of a groundwater-dependent culturally significant area unless, in the Minister's opinion, the water supply work is likely to cause no more than minimal harm to the groundwater-dependent culturally significant area,
 - (e) 200m of a wetland,
 - (f) 500m of a karst,
 - (g) 200m of a spring.
- (2) Subsection (1) does not apply if the water supply work is a replacement groundwater work.
- (3) Subsection (1)(e)–(g) does not apply if, in the Minister's opinion, the location of the water supply work is likely to cause no more than minimal harm to the wetland, karst or spring concerned.

Division 3A Water supply work approvals

50A Granting water supply work approvals

- (1) A water supply work approval must not be granted for a water supply work used to take water from one of the following water sources—
- (a) Bondi Lake and Tributaries Water Source,
 - (b) Curalo Lake and Tributaries Water Source,
 - (c) Eden Tributaries Water Source,
 - (d) Far South Coast Water Source,
 - (e) Nullica River Water Source,
 - (f) Pericoe River Water Source,
 - (g) Stockyard Creek Water Source,
 - (h) Tura Beach Tributaries Water Source.
- (2) Subsection (1) does not apply to water supply works used to take water solely under—
- (a) an access licence of the subcategory Aboriginal cultural, or
 - (b) basic landholder rights.

Part 8 Access licence dealing rules—the Act, s 20(1)(d)

Note— The access licence dealing principles established by the Access Licence Dealing Principles Order 2004 prevail over the access licence dealing rules in this Part to the extent of an inconsistency.

51 Conversion of access licence to new category dealings

A dealing under the Act, section 71O is prohibited unless the conversion is from—

- (a) an unregulated river access licence to an aquifer access licence in the same water source, or
- (b) an unregulated river access licence to an unregulated (high flow) access licence in one of the following water sources, but only if the sum of the share components of all unregulated (high flow) access licences in the water source does not exceed the amount specified—
 - (i) Lower Towamba River Water Source—119 unit shares,
 - (ii) Mataganah Creek Water Source—65 unit shares,
 - (iii) Myrtle Creek Water Source—44 unit shares,
 - (iv) Upper Towamba River Water Source—167 unit shares.

Note— The Access Licence Dealing Principles Order 2004, clause 11 contains restrictions relating to dealings under the Act, section 71O.

52 Assignment of rights dealings

- (1) An assignment of rights under the Act, section 71Q from an aquifer access licence that nominates a water supply work located further than 40m from the top of the high bank of a river to an access licence that nominates a water supply work located within 40m of the top of the high bank of a river is prohibited.
- (2) The following assignments of rights under the Act, section 71Q are prohibited—
 - (a) an assignment to an access licence in a different extraction management unit,
 - (b) an assignment from an access licence in a water source to which this Plan does not apply,
 - (c) an assignment from an aquifer access licence to an unregulated river access licence,
 - (d) an assignment from an access licence in the Lower Towamba River Water Source (the *first licence*), except to an access licence that only nominates a water supply work located downstream of a water supply work nominated by the first licence,
 - (e) an assignment to an access licence in a different water source, except as permitted under subsection (3).
- (3) The following assignments of rights under the Act, section 71Q between water sources are permitted—
 - (a) an assignment from an access licence in one of the following water sources to an access licence in the Lower Towamba River Water Source—
 - (i) Jingo Creek Water Source,
 - (ii) Mataganah Creek Water Source,
 - (iii) Myrtle Creek Water Source,
 - (iv) Upper Towamba River Water Source,

- (b) an assignment from an access licence in either of the following water sources to an access licence in the Upper Towamba River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
- (c) an assignment from an access licence in one of the following water sources to an access licence in the Wog Wog River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (iii) Upper Towamba River Water Source,
- (d) an assignment from an access licence in the Upper Towamba River Water Source to an access licence in either of the following water sources—
 - (i) Mataganah Creek Water Source, if the sum of the share components of all access licences in the Mataganah Creek Water Source following the dealing will be no more than 155 unit shares,
 - (ii) Myrtle Creek Water Source, if the sum of the share components of all access licences in the Myrtle Creek Water Source is no more than 209 unit shares.

53 Amendment of share component dealings—change of water source

- (1) The following dealings under the Act, section 71R are prohibited—
 - (a) the cancellation of an access licence to grant an access licence in a water source in a different extraction management unit,
 - (b) the cancellation of an access licence in a water source to which this Plan does not apply to grant an access licence in a water source to which this Plan applies,
 - (c) the cancellation of an access licence in order to grant an access licence in a water source to which this Plan applies, except as permitted under subsection (2).
- (2) The following dealings under the Act, section 71R are permitted—
 - (a) the cancellation of an access licence in one of the following water sources to grant an access licence in the Lower Towamba River Water Source—
 - (i) Jingo Creek Water Source,
 - (ii) Mataganah Creek Water Source,
 - (iii) Myrtle Creek Water Source,
 - (iv) Upper Towamba River Water Source,
 - (b) the cancellation of an access licence in either of the following water sources to grant an access licence in the Upper Towamba River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (c) the cancellation of an access licence in one of the following water sources to grant an access licence in the Wog Wog River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (iii) Upper Towamba River Water Source,

- (d) the cancellation of an access licence in the Upper Towamba River Water Source to grant an access licence in either of the following water sources—
 - (i) Mataganah Creek Water Source, if the sum of the share components of all access licences in the Mataganah Creek Water Source following the dealing will be no more than 155 unit shares,
 - (ii) Myrtle Creek Water Source, if the sum of the share components of all access licences in the Myrtle Creek Water Source following the dealing will be no more than 209 unit shares.
- (3) The extraction component of a new access licence granted in accordance with the Act, section 71R does not carry over the extraction component from the cancelled access licence.

54 Amendment of extraction component dealings

[Not applicable]

55 Assignment of water allocations dealings

- (1) An assignment of water allocations under the Act, section 71T from an aquifer access licence that nominates a water supply work located further than 40m from the top of the high bank of a river to an access licence that nominates a water supply work located within 40m of the top of the high bank of a river is prohibited.
- (2) The following assignments of water allocations under the Act, section 71T are prohibited—
 - (a) an assignment from an access licence in an extraction management unit to an access licence in another extraction management unit,
 - (b) an assignment from an access licence in a water source to which this Plan does not apply,
 - (c) an assignment from an aquifer access licence to an unregulated river access licence,
 - (d) an assignment from an access licence in the Lower Towamba River Water Source (the *first licence*), except to an access licence that only nominates a water supply work located downstream of a water supply work nominated by the first licence,
 - (e) an assignment to an access licence in a different water source, except as permitted under subsection (3).
- (3) The following assignments of rights under the Act, section 71T between water sources are permitted—
 - (a) an assignment from an access licence in one of the following water sources to an access licence in the Lower Towamba River Water Source—
 - (i) Jingo Creek Water Source,
 - (ii) Mataganah Creek Water Source,
 - (iii) Myrtle Creek Water Source,
 - (iv) Upper Towamba River Water Source,
 - (b) an assignment from an access licence in either of the following water sources to an access licence in the Upper Towamba River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,

- (c) an assignment from an access licence in one of the following water sources to an access licence in the Wog Wog River Water Source—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (iii) Upper Towamba River Water Source.

56 Interstate access licence transfer and assignment of water allocations dealings prohibited

Dealings under the Act, section 71U and 71V are prohibited.

57 Prohibited nominations of water supply works dealings

- (1) The following dealings under the Act, section 71W are prohibited—
 - (a) an access licence under which groundwater may be taken being amended to nominate a water supply work authorised by its approval to take surface water,
 - (b) an aquifer access licence that nominates a water supply work located further than 40m from the top of the high bank of a river being amended to nominate a water supply work located within 40m of the top of the high bank of a river,
 - (c) an access licence being amended to nominate a water supply work outside of the State,
 - (d) an access licence that nominates a water supply work in the Lower Towamba River Water Source being amended to nominate a water supply work upstream of all other water supply works nominated by the licence,
 - (e) an access licence being amended to nominate a water supply work located in a different water source to that specified in the share component of the access licence, except as permitted under (2).
- (2) An access licence may be amended to nominate a water supply work located in a different water source as follows—
 - (a) in the Lower Towamba River Water Source, if the share component of the access licence is one of the following water sources—
 - (i) Jingo Creek Water Source,
 - (ii) Mataganah Creek Water Source,
 - (iii) Myrtle Creek Water Source,
 - (iv) Upper Towamba River Water Source,
 - (b) in the Upper Towamba River Water Source, if the share component of the access licence is one of the following water sources—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (c) in the Wog Wog River Water Source, if the share component of the access licence is one of the following water sources—
 - (i) Mataganah Creek Water Source,
 - (ii) Myrtle Creek Water Source,
 - (iii) Upper Towamba River Water Source,

- (d) if the share component of the access licence is the Upper Towamba River Water Source, in either of the following water sources—
 - (i) Mataganah Creek Water Source, if the sum of the share components of all access licences that nominate a water supply work in the Mataganah Creek Water Source following the dealing will be no more than 155 unit shares,
 - (ii) Myrtle Creek Water Source, if the sum of the share components of all access licences that nominate a water supply work in the Myrtle Creek Water Source following the dealing will be no more than 209 unit shares.

Part 9 Mandatory conditions—the Act, s 17(c)

Division 1 General

58 Definitions

In this Part—

AS 4747 has the same meaning as in the Water Management (General) Regulation 2018, clause 228.

Logbook means a written record, kept in hard copy or electronic form.

Minimum Construction Requirements for Water Bores in Australia means the document titled Minimum Construction Requirements for Water Bores in Australia, ISBN 978-0-646-81881-8, published by the National Uniform Drillers Licensing Committee, 2020.

operational meter means an operational meter that complies with AS 4747.

relevant mandatory metering equipment condition means the mandatory metering equipment condition for a work that takes or may be used to take water from a water source to which the *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010* applied, as in force on 1 July 2019.

water account debit means a water allocation that is taken, assigned under the Act, section 71T or 71V, or otherwise debited or withdrawn from a water allocation account.

Division 2 Access licences

59 General conditions

Each access licence must be subject to the following mandatory conditions—

- (a) the water taken under an access licence must not be more than the maximum water account debit permitted under section 31,
- (b) the access rules for the taking of water specified in Part 6, Divisions 4 and 5 that are relevant to the access licence,
- (c) other conditions required to implement the provisions of this Plan, including a condition requiring compliance with section 60(1).

60 Record-keeping conditions

- (1) Before water is taken under an access licence, the licence holder must—
 - (a) confirm a cease-to-take condition does not apply, and
 - (b) record the confirmation, including how the confirmation was established, in a Logbook.
- (2) Each access licence must be subject to the following mandatory conditions—
 - (a) the licence holder must record the following information in a Logbook each time water is taken using a water supply work that does not have an operational meter or an operational data logger—
 - (i) the date, start-time and end-time during which water was taken under the licence,
 - (ii) the volume of water taken on that date,

- (iii) the water supply work approval number of the water supply work used to take the water on that date,
 - (iv) the purposes for which the water was taken on that date,
 - (v) the volume of water taken in a water year compared with the water account debit permitted under section 31 for the licence,
- (b) the licence holder must keep the information required to be recorded in the Logbook for 5 years from the date to which that information relates.
- (3) Subsection (1)(b) and (2)(a) is repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

Note— See the *Water Management (General) Regulation 2018*, clause 230(1).

Division 3 Water supply work approvals

61 General conditions

Each water supply work approval must be subject to the following mandatory conditions—

- (a) if the water supply work is approved for the purpose of monitoring, an environmental remediation activity or emergency services—the work must be used only for that purpose,
- (b) other conditions required to implement the provisions of this Plan, including conditions requiring compliance with sections 62 and 63.

62 Record-keeping conditions

- (1) This section does not apply to a water supply work approval if the work is used only for the purpose of taking water under basic landholder rights.
- (2) Before a water supply work is used to take water, the approval holder must—
 - (a) confirm a cease-to-take condition does not apply, and
 - (b) record the confirmation, including how the confirmation was established, in a Logbook.
- (3) The approval holder must —
 - (a) record the following information in a Logbook each time water is taken using a water supply work that does not have an operational meter or an operational data logger—
 - (i) the date, start-time and end-time during which water was taken using the water supply work,
 - (ii) the volume of water taken on that date,
 - (iii) the access licence under which water was taken on that date or, if water was taken under some other authority, the authority under which water was taken,
 - (iv) the purposes for which the water was taken on that date,
 - (v) details of cropping carried out using the water taken using the water supply work including the type of crop, area cropped and dates of planting and harvesting,

- (vi) if metering equipment has been installed for use in connection with the water supply work and is operational, the meter reading before each time water is taken,
 - (vii) if metering equipment has not been installed for use in connection with the water supply work, or has been installed but is not operational, details of all pumping activities for the water supply work including pump running times, pump power usage or pump fuel usage, pump start-times, pump stop-times and pump capacity per unit of time, and
- (b) keep the information recorded in the Logbook for 5 years from the date to which that information relates.
- (4) If the holder of a water supply work approval is the same person as the holder of the access licence under which water is proposed to be taken, the holder may comply with the requirements of this Plan in 1 Logbook.
- (5) Subsections (2)(b), (3)(a) and (4) are repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

Note— See the Water Management (General) Regulation 2018, clause 230(1).

63 Metering conditions

- (1) This section applies to water supply works used to take water under an access licence.
- (2) The approval holder must, if directed by the Minister to install metering equipment under the Act, install metering equipment that complies with AS 4747.
- (3) If directed to install metering equipment under subsection (2), the approval holder must ensure the following—
- (a) the metering equipment accurately measures and records the flow of all water taken through each water supply work,
 - (b) the metering equipment is operated and maintained in a proper and efficient manner at all times,
 - (c) other requirements relating to the type, standard or other criteria for metering equipment are complied with, as directed by the Minister.
- (4) This section is repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

Note— See the Water Management (General) Regulation 2018, clause 230(1).

Division 4 Water supply work approvals for groundwater

64 Application of Division

- (1) This Division, other than section 67, sets out the conditions required to be imposed on a water supply work approval for a work taking groundwater.
- (2) Section 67 sets out a condition required to be imposed on a water supply work approval for a water bore taking groundwater.

65 Water supply work construction conditions

- (1) The holder of a water supply work approval (the **approval holder**) must ensure the water supply work to which the approval relates is constructed as follows—

- (a) the water supply work must be constructed in the location authorised in the approval,
 - (b) water must be taken through the water supply work only from the water source specified in the share component of the access licence that nominates the water supply work,
 - (c) the water supply work must be sealed off from all other water sources,
 - (d) construction of the water supply work must comply with the construction standards for the type of bore, as prescribed in the *Minimum Construction Requirements for Water Bores in Australia*,
 - (e) construction and use of the water supply work must prevent contamination of the aquifer and between aquifers,
 - (f) construction and use of the water supply work must prevent the flow of saline water between aquifers.
- (2) If contaminated water is encountered during the construction of a water supply work, other than a water supply work constructed to monitor or remediate contaminated water, the approval holder must—
- (a) within 48 hours of becoming aware of the contaminated water, give the Minister written notice, and
 - (b) take all reasonable steps to minimise contamination and environmental harm, and
 - (c) ensure the contaminated water is sealed off by inserting casing to a depth sufficient to exclude the contaminated water from the water supply work, and
 - (d) place an impermeable seal in the borehole annulus, when and as directed by the Minister, and
 - (e) comply with other requirements, if any, specified by the Minister.
- (3) The approval holder must provide details of the water supply work to the Minister in the approved form—
- (a) within 60 days of completion of the construction of the water supply work, or
 - (b) if the approval is for the amendment of an existing water supply work—within 60 days after the issue of the amended water supply work approval.
- (4) The approval holder must ensure—
- (a) the construction of the water supply work is completed within 3 years of the approval being granted (the *relevant period*), and
 - (b) the water supply work is not used unless construction is completed within the relevant period.
- (5) If a water supply work is not constructed within the relevant period, the approval for the water supply work expires at the end of the relevant period.
- (6) A water supply work approval for a replacement groundwater work must impose conditions giving effect to section 44(1)(b)–(d).

Note— For the definition of *replacement groundwater work*—see section 44.

66 Water quality condition

The approval holder must, if directed by the Minister by written notice, provide a report in the form specified in the notice detailing the quality of water obtained using the water supply work within the time frame, if any, specified in the notice.

67 Water bore decommissioning condition

- (1) An approval holder must, at least 60 days before decommissioning a water bore, give written notice to the Minister of the intention to decommission the water bore.
- (2) The written notice must include a work plan for the decommission.
- (3) The work plan must be prepared in accordance with the *Minimum Construction Requirements for Water Bores in Australia*.
- (4) The Minister may, within 60 days of receiving notice under this section, give a direction that the water bore—
 - (a) must not be decommissioned, or
 - (b) must be decommissioned in accordance with the requirements specified in the direction.
- (5) The approval holder must not decommission the water bore if the Minister has given a direction that the water bore must not be decommissioned.
- (6) In decommissioning the water bore, the approval holder must comply with—
 - (a) the work plan, and
 - (b) if the Minister has given a direction—the requirements specified in the direction.
- (7) The approval holder must, no later than 60 days after decommissioning the water bore, give the Minister written notice of—
 - (a) the decommissioning of the water bore, and
 - (b) the name of the driller who decommissioned the work.

Part 10 Amendment of this Plan—the Act, s 17(d)

68 Amendments

- (1) This Plan may be amended as follows—
 - (a) to extend the application of this Plan to a water source or water management area, or to modify or remove a water source or water management area to which this Plan applies,
 - (b) to add, remove or modify a management zone, including the water sources to which a management zone applies and the boundaries of the zone,
 - (c) to add, remove or modify the access rules that apply to the take of water from in-river pools, off-river pools and in-river dam pools,
 - (d) if the amendments will not substantially change a long-term average annual extraction limit or the time at which water may be extracted from a water source—
 - (i) to replace Part 4, Division 2 to establish extraction limits that have been determined based on a proportion of flow, and
 - (ii) to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth,
 - (e) if the amendments will not substantially change a long-term average annual extraction limit—to add provisions relating to the following—
 - (i) total daily extraction limits,
 - (ii) individual daily extraction components,
 - (f) to add or modify provisions relating to the following—
 - (i) the management of waters in coastal sands,
 - (ii) managed aquifer recharge,
 - (iii) the interception of water before it reaches a stream or aquifer by plantations or other means,
 - (iv) the management of aquifer interference activities, including the granting of aquifer interference approvals,
 - (v) the protection of groundwater-dependent culturally significant areas,
 - (vi) stormwater harvesting,
 - (g) to protect water-dependent Aboriginal cultural assets, including as follows—
 - (i) by identifying water-dependent Aboriginal cultural assets,
 - (ii) by establishing new flow classes or access rules,
 - (iii) by restricting the construction and use of water supply works,
 - (iv) by establishing new access licence dealing rules,
 - (h) if, within 3 years of the commencement of this Plan, an analysis of the uptake of harvestable rights determines the take of harvestable rights has increased above the take permitted under the 2006 Harvestable Rights Order—to modify Parts 6–8 to protect critical environmental needs and basic landholder rights,
 - (i) to add, modify or remove a definition,
 - (j) to modify Schedule 2 or 3 to add or remove an access licence,
 - (k) to add or remove a contamination source by amending Schedule 4,

- (1) to make amendments consequential on an amendment to the Act or regulations.
- (2) This Plan may be amended to make consequential amendments necessary to give effect to an amendment authorised by subsection (1).

Schedule 1 Flow classes

Section 33

Column 1	Column 2	Column 3	Column 4
Water source	Flow class	Flow class threshold	Flow reference point
Jingo Creek Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	
Lower Towamba River Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	
Mataganah Creek Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	
Myrtle Creek Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	
Pambula Lake Tributaries Water Source	Very Low Flow Class	0.5ML/day or less	Pambula River at Lochiel gauge (220003)
	A Class	More than 0.5ML/day and less than	

		or equal to 3.4ML/day	
	B Class	More than 3.4ML/day	
Upper Towamba River Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	
Wog Wog River Water Source	Very Low Flow Class	6.5ML/day or less	Towamba gauge (220004)
	A Class	More than 6.5ML/day and less than or equal to 15ML/day	
	B Class	More than 15ML/day and less than or equal to 51ML/day	
	C Class	More than 51ML/day	

Schedule 2 Access licences exempt from cease to pump rules

sections 37(2)(a) and (d) and 40(1)(a) and (c)

Table A – Access licences other than local water utility access licences and domestic and stock (town water supply) access licences

Column 1	Column 2
Water source	Access licence number
Pambula Lake Tributaries	23250
Sandy Beach Creek	30162

Table B – Local water utility access licences and domestic and stock (town water supply) access licences

Column 1	Column 2
Water source	Access licence number
Lower Towamba River	30172
Myrtle Creek	24066
Myrtle Creek	41087

Schedule 3 Access licences subject to cease-to-take condition

sections 37(4)(b) and 40(2)

Column 1	Column 2	Column 3
Access licence number	Water source	Cease-to-take condition
23244	Mataganah Creek	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 10ML/day or less
23287	Upper Towamba River	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 8.5ML/day or less
23292	Upper Towamba River	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 8.5ML/day or less
23296	Upper Towamba River	Water must not be taken when the flow in the Towamba River at Towamba gauge (220004) is 13ML/day or less

Schedule 4 Contamination sources

section 46(5)

Contamination sources are as follows—

- (a) a site declared to be significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*,
- (b) a site notified to the Environment Protection Authority under the *Contaminated Land Management Act 1997*, section 60.

Schedule 5 Dictionary

Section 6

2006 Harvestable Rights Order means the Order under section 54, the Act for harvestable rights—
Eastern and Central Division, Gazette No 40, 31 March 2006, pages 1628–1630.

3-year average higher flow extraction —see section 18.

3-year average standard extraction —see section 18.

annual higher flow extraction —see section 18.

annual higher flow extraction limit —see section 18.

annual standard extraction —see section 18.

AS 4747—see section 48.

borehole annulus means the space between the bore casing and the wall of the borehole.

cease-to-take condition means a term or condition of an access licence or a water supply work approval that prohibits the take of water in a particular circumstance.

coastal wetlands means land identified as coastal wetlands on the Coastal Wetlands and Littoral Rainforests Area Map.

Coastal Wetlands and Littoral Rainforests Area Map has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*.

Note— The Coastal Wetlands and Littoral Rainforests Area Map is available on the NSW Planning Portal at www.planningportal.nsw.gov.au.

declared Ramsar wetland has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

extraction management unit means an extraction management unit established under section 5.

flood-runner means a stream or part of a stream that only flows during a flood.

former entitlement has the same meaning as in the Act, Schedule 10, clause 2.

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

Government monitoring or observation bore means a bore owned or operated by or on behalf of the Minister, the Ministerial Corporation, the Department or WaterNSW and used for observation or monitoring purposes.

groundwater means water occurring beneath the ground surface in the saturated zone, being the area below the water table where all soil spaces, pores, fractures and voids are filled with water.

groundwater-dependent culturally significant area means an area determined by the Minister to be a groundwater-dependent culturally significant area.

groundwater-dependent ecosystem means an ecosystem that has its species composition and natural ecological processes wholly or partially determined by groundwater.

high priority groundwater-dependent ecosystem means a high priority groundwater-dependent ecosystem identified on the High Priority Groundwater-Dependent Ecosystem Map.

High Priority Groundwater-Dependent Ecosystem Map means the Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023 High Priority Groundwater-Dependent Ecosystem Map.

Note— The High Priority Groundwater-Dependent Ecosystem Map is available on the Department's website.

higher flow extraction licence —see section 18.

in-river dam means a dam located in a river.

in-river dam pool means the water impounded by an in-river dam, but does not include water in an in-river pool.

in-river pool means a natural pool, lagoon or lake within a river or stream, but does not include—

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

karst means an area of land, including subterranean land, developed in soluble rock through the processes of solution, abrasion or collapse, together with its associated bedrock, soil, water, gases and biodiversity.

kl/day means kilolitres per day.

Logbook—see section 48.

relevant mandatory metering equipment condition—see section 58.

Minimum Construction Requirements for Water Bores in Australia—see section 48.

ML/unit share means megalitres per unit share.

ML/year means megalitres per year.

off-river pool means a natural pool, lagoon or lake that is not within a river or stream, regardless of stream size, and located on—

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

operational meter—see section 48.

Plan Map means the Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023 Plan Map.

Note— The Plan Map is available on the Department's website.

planning approval means—

- (a) a development consent under the *Environmental Planning and Assessment Act 1979*, Part 4,
- (b) a State significant infrastructure approval under that Act, Part 5.1, or
- (c) a transitional Part 3A project approval under that Act, Schedule 6A.

Note— The *Environmental Planning and Assessment Act 1979*, Schedule 6A has been transferred to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

reduced available water determination—see section 18.

relevant mandatory metering equipment condition—see section 58.

replacement groundwater work—see section 44.

standard LTAAEL—see section 18.

surface water means all water naturally occurring on the surface of the land, including all rivers, lakes and wetlands, within the boundaries of the water sources shown on the Plan Map.

the Act means the *Water Management Act 2000*.

third order or higher stream means a stream identified as a third order or higher stream, as determined in accordance with the system set out in the *Water Management (General) Regulation 2018*, Schedule 2.

top of the high bank of a river means, in relation to the location of a water supply work, the top of the higher bank on the side of the river where the work is located, unless otherwise determined by the Minister.

visible flow means the continuous perceptible downstream movement of water.

water account debit—see section 48.

water year means a period of 1 year commencing on 1 July.

wetland means either of the following—

- (a) coastal wetlands,
- (b) a declared Ramsar wetland.