



New South Wales

# **Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023**

under the

Water Management Act 2000

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

ROSE JACKSON, MLC

Minister for Water

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# Water Sharing Plan for the Bega River Area Regulated, 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 Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023.

### 2 Commencement

This Plan commences on 1 July 2023.

### 3 Water sources to which Plan applies

- (1) 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) the Barragoot Lake Tributaries Water Source,
  - (b) the Bega and Brogo Regulated Rivers Water Source,
  - (c) the Bega River Area Coastal Floodplain Alluvial Groundwater Source,
  - (d) the Bega River Estuary and Tributaries Water Source,
  - (e) the Bermagui River Water Source,
  - (f) the Bobundra Creek Water Source,
  - (g) the Candelo Creek Water Source,
  - (h) the Cuttagee Lake Tributaries Water Source,
  - (i) the Dignams Creek Water Source,
  - (j) the Dry River Water Source,
  - (k) the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (l) the Mid Bega River Sands Water Source,
  - (m) the Mid Bega River Tributaries Water Source,
  - (n) the Middle Lagoon Tributaries Water Source,
  - (o) the Murrah Estuary Tributaries Water Source,
  - (p) the Murrah River Water Source,
  - (q) the Narira Creek Water Source,
  - (r) the Nelson Lagoon Tributaries Water Source,
  - (s) the Sandy Creek Water Source,
  - (t) the Tantawangalo Creek Water Source,
  - (u) the Upper Bega/Bemboka Rivers Tributaries Water Source,

- (v) the Upper Bega/Bemboka Rivers Water Source,
  - (w) the Upper Brogo River Water Source,
  - (x) the Wallaga Lake Tributaries Water Source,
  - (y) the Wapengo Lagoon Tributaries Water Source,
  - (z) the Wolumla Creek Water Source.
- (2) The water sources, other than the Bega and Brogo Regulated Rivers Water Source, the Bega River Area Coastal Floodplain Alluvial Groundwater Source, the Bermagui River Water Source, the Murrah Estuary Tributaries Water Source, the Nelson Lagoon Tributaries Water Source, and the Wapengo Lagoon Tributaries Water Source—
- (a) include surface water, other than water contained within the regulated river,
  - (b) include groundwater contained in Cenozoic sediments, other than groundwater—
    - (i) contained in the Bega River Area Coastal Floodplain Alluvial Groundwater Source and Bega and Brogo Regulated Rivers Water Source, and
    - (ii) to which the *Water Sharing Plan for the South Coast Groundwater Sources 2016* applies.
- (3) The Bermagui River Water Source, the Murrah Estuary Tributaries Water Source, the Nelson Lagoon Tributaries Water Source, and the Wapengo Lagoon Tributaries Water Source—
- (a) include surface water upstream of the mangrove limit,
  - (b) include groundwater contained in Cenozoic sediments, other than groundwater—
    - (i) contained in the Bega River Area Coastal Floodplain Alluvial Groundwater Source, and
    - (ii) to which the *Water Sharing Plan for the South Coast Groundwater Sources 2016* applies.
- (4) The Bega and Brogo Regulated Rivers Water Source includes—
- (a) water contained within the regulated river, and
  - (b) groundwater contained in Cenozoic sediments underlying the regulated river.
- (5) The Bega River Area Coastal Floodplain Alluvial Groundwater Source—
- (a) includes groundwater contained in Cenozoic sediments, and
  - (b) does not include surface water.

- (6) In this section—

**regulated river** means the river declared to be a regulated river by the *Regulated River Order for the Bega and Brogo Regulated Rivers 2018*.

**Note—** See the *Water Management Act 2000*, Schedule 12, clause 53(1).

**mangrove limit** has the same meaning as in the DIPNR Survey of tidal limits and mangrove limits in NSW estuaries 1996 to 2005, 1 September 2006, published on the Department's website.

#### 4 Management zones to which Plan applies

- (1) The Bega River Estuary and Tributaries Water Source is divided into the following management zones shown on the Plan Map—
- (a) the Upper Estuary Management Zone,

- (b) the Lower Estuary Management Zone.
- (2) The Tantawangalo Creek Water Source is divided into the following management zones shown on the Plan Map—
  - (a) the Upper Tantawangalo Creek Management Zone,
  - (b) the Lower Tantawangalo Creek Management Zone.
- (3) The Upper Bega/Bemboka Rivers Tributaries Water Source is divided into the following management zones shown on the Plan Map—
  - (a) the Upper Tributary Management Zone,
  - (b) the Lower Tributary Management Zone.

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

The following extraction management units are established—

- (a) the Bega and Brogo Regulated Rivers Extraction Management Unit, consisting of the Bega and Brogo Regulated Rivers Water Source,
- (b) the Bega River Area Coastal Floodplain Alluvial Groundwater Extraction Management Unit, consisting of the Bega River Area Coastal Floodplain Alluvial Groundwater Source,
- (c) the Bega River Catchment Extraction Management Unit, consisting of the following water sources—
  - (i) the Bega River Estuary and Tributaries Water Source,
  - (ii) the Candelo Creek Water Source,
  - (iii) the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (iv) the Mid Bega River Sands Water Source,
  - (v) the Mid Bega River Tributaries Water Source,
  - (vi) the Sandy Creek Water Source,
  - (vii) the Tantawangalo Creek Water Source,
  - (viii) the Upper Bega/Bemboka Rivers Tributaries Water Source,
  - (ix) the Upper Bega/Bemboka Rivers Water Source,
  - (x) the Upper Brogo River Water Source,
  - (xi) the Wolumla Creek Water Source,
- (d) the Murrah-Wallaga Extraction Management Unit, consisting of the following water sources—
  - (i) the Barragoot Lake Tributaries Water Source,
  - (ii) the Bermagui River Water Source,
  - (iii) the Bobundra Creek Water Source,
  - (iv) the Cuttagee Lake Tributaries Water Source,
  - (v) the Dignams Creek Water Source,
  - (vi) the Dry River Water Source,
  - (vii) the Middle Lagoon Tributaries Water Source,
  - (viii) the Murrah Estuary Tributaries Water Source,



- (ix) the Murrah River Water Source,
- (x) the Narira Creek Water Source,
- (xi) the Nelson Lagoon Tributaries Water Source,
- (xii) the Wapengo Lagoon Tributaries Water Source,
- (xiii) the Wallaga Lake Tributaries 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)**

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 with 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.

**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 4,100ML/year distributed as follows—

- (a) 8ML/year in the Barragoot Lake Tributaries Water Source,
- (b) 671ML/year in the Bega and Brogo Regulated Rivers Water Source,
- (c) 6ML/year in the Bega River Area Coastal Floodplain Alluvial Groundwater Source,
- (d) 75ML/year in the Bega River Estuary and Tributaries Water Source,
- (e) 80ML/year in the Bermagui River Water Source,
- (f) 75ML/year in the Bobundra Creek Water Source,
- (g) 167ML/year in the Candelo Creek Water Source,
- (h) 13ML/year in the Cuttagee Lake Tributaries Water Source,
- (i) 60ML/year in the Dignams Creek Water Source,
- (j) 190ML/year in the Dry River Water Source,
- (k) 916ML/year in the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
- (l) 16ML/year in the Mid Bega River Sands Water Source,
- (m) 224ML/year in the Mid Bega River Tributaries Water Source,
- (n) 31ML/year in the Middle Lagoon Tributaries Water Source,
- (o) 103ML/year in the Murrah Estuary Tributaries Water Source,
- (p) 25ML/year in the Murrah River Water Source,
- (q) 238ML/year in the Narira Creek Water Source,
- (r) 6ML/year in the Nelson Lagoon Tributaries Water Source,
- (s) 256ML/year in the Sandy Creek Water Source,
- (t) 157ML/year in the Tantawangalo Creek Water Source,
- (u) 412ML/year in the Upper Bega/Bemboka Rivers Tributaries Water Source,
- (v) 12ML/year in the Upper Bega/Bemboka Rivers Water Source,
- (w) 16ML/year in the Upper Brogo River Water Source,
- (x) 58ML/year in the Wallaga Lake Tributaries Water Source,
- (y) 41ML/year in the Wapengo Lagoon Tributaries Water Source,
- (z) 244ML/year in the Wolumla Creek 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, without the need for an access licence, water supply work approval or water use approval, to take and use water in the exercise of native title rights—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 7,835.8ML/year distributed as follows—

- (a) 58.7ML/year in the Barragoot Lake Tributaries Water Source,
- (b) 0ML/year in the Bega and Brogo Regulated Rivers Water Source,
- (c) 0ML/year in the Bega River Area Coastal Floodplain Alluvial Groundwater Source,
- (d) 299.8ML/year in the Bega River Estuary and Tributaries Water Source,
- (e) 609.2ML/year in the Bermagui River Water Source,
- (f) 48.8ML/year in the Bobundra Creek Water Source,
- (g) 193.9ML/year in the Candelo Creek Water Source,
- (h) 66ML/year in the Cuttagee Lake Tributaries Water Source,
- (i) 46.9ML/year in the Dignams Creek Water Source,
- (j) 893.2ML/year in the Dry River Water Source,
- (k) 1372.5ML/year in the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
- (l) 17.6ML/year in the Mid Bega River Sands Water Source,
- (m) 193.4ML/year in the Mid Bega River Tributaries Water Source,
- (n) 148ML/year in the Middle Lagoon Tributaries Water Source,
- (o) 182.2ML/year in the Murrah Estuary Tributaries Water Source,
- (p) 35.6ML/year in the Murrah River Water Source,
- (q) 1,149.9ML/year in the Narira Creek Water Source,
- (r) 18.1ML/year in the Nelson Lagoon Tributaries Water Source,
- (s) 301.7ML/year in the Sandy Creek Water Source,
- (t) 476.5ML/year in the Tantawangalo Creek Water Source,
- (u) 831.8ML/year in the Upper Bega/Bemboka Rivers Tributaries Water Source,
- (v) 0ML/year in the Upper Bega/Bemboka Rivers Water Source,
- (w) 0ML/year in the Upper Brogo River Water Source,
- (x) 49ML/year in the Wallaga Lake Tributaries Water Source,
- (y) 189.6ML/year in the Wapengo Lagoon Tributaries Water Source,
- (z) 653.4ML/year in the Wolumla Creek Water Source.

### **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 448.1ML/year distributed as follows—
  - (a) 53.5ML/year in the Bega and Brogo Regulated Rivers Water Source,
  - (b) 5ML/year in the Bega River Estuary and Tributaries Water Source,
  - (c) 37.5ML/year in the Bermagui River Water Source,
  - (d) 67ML/year in the Bobundra Creek Water Source,

- (e) 43ML/year in the Candelo Creek Water Source,
  - (f) 2ML/year in the Dignams Creek Water Source,
  - (g) 46.5ML/year in the Dry River Water Source,
  - (h) 41.1ML/year in the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (i) 23ML/year in the Mid Bega River Sands Water Source,
  - (j) 6ML/year in the Mid Bega River Tributaries Water Source,
  - (k) 6.5ML/year in the Middle Lagoon Tributaries Water Source,
  - (l) 12.5ML/year in the Narira Creek Water Source,
  - (m) 17.5ML/year in the Sandy Creek Water Source,
  - (n) 26ML/year in the Tantawangalo Creek Water Source,
  - (o) 11.5ML/year in the Upper Bega/Bemboka Rivers Tributaries Water Source,
  - (p) 10.5ML/year in the Upper Bega/Bemboka Rivers Water Source,
  - (q) 7.5ML/year in the Wapengo Lagoon Tributaries Water Source,
  - (r) 31.5ML/year in the Wolumla Creek Water Source,
  - (s) 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 4,306ML/year distributed as follows—
- (a) 2,640ML/year in the Mid Bega River Sands Water Source,
  - (b) 1,500ML/year in the Tantawangalo Creek Water Source,
  - (c) 66ML/year in the Upper Bega/Bemboka Rivers Water Source,
  - (d) 100ML/year in the Wallaga Lakes Tributaries Water Source.
- (3) On the commencement of this Plan, the share components of unregulated river access licences are estimated to be a total of 29,091.9 unit shares distributed as follows—
- (a) 0 unit shares in the Barragoot Lake Tributaries Water Source,
  - (b) 174 unit shares in the Bega River Estuary and Tributaries Water Source,
  - (c) 778.5 unit shares in the Bermagui River Water Source,
  - (d) 344 unit shares in the Bobundra Creek Water Source,
  - (e) 1,677 unit shares in the Candelo Creek Water Source,
  - (f) 20 unit shares in the Cuttagee Lake Tributaries Water Source,
  - (g) 173 unit shares in the Dignams Creek Water Source,
  - (h) 1,684.2 unit shares in the Dry River Water Source,
  - (i) 1,509 unit shares in the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (j) 3,225 unit shares in the Mid Bega River Sands Water Source,
  - (k) 52 unit shares in the Mid Bega River Tributaries Water Source,
  - (l) 8.3 unit shares in the Middle Lagoon Tributaries Water Source,
  - (m) 0 unit shares in the Murrah Estuary Tributaries Water Source,
  - (n) 113 unit shares in the Murrah River Water Source,
  - (o) 829.4 unit shares in the Narira Creek Water Source,

- (p) 0 unit shares in the Nelson Lagoon Tributaries Water Source,
  - (q) 1,394.5 unit shares in the Sandy Creek Water Source,
  - (r) 3,417 unit shares in the Tantawangalo Creek Water Source,
  - (s) 2,351.5 unit shares in the Upper Bega/Bemboka Rivers Tributaries Water Source,
  - (t) 9,401 unit shares in the Upper Bega/Bemboka Rivers Water Source,
  - (u) 0 unit shares in the Upper Brogo River Water Source,
  - (v) 15 unit shares in the Wallaga Lake Tributaries Water Source,
  - (w) 144.5 unit shares in the Wapengo Lagoon Tributaries Water Source,
  - (x) 1,781 unit shares in the Wolumla Creek Water Source.
- (4) On the commencement of this Plan, the share components of unregulated river (A Class) access licences, unregulated river (B Class) access licences, unregulated river (C Class) access licences and unregulated river (high flow) access licences are estimated to be a total of 0ML/year in all water sources.
- (5) On the commencement of this Plan, the share components of aquifer access licences are estimated to be a total of 875 unit shares distributed as follows—
- (a) 0 unit shares in the Bega River Area Coastal Floodplain Alluvial Groundwater Source,
  - (b) 70 unit shares in the Bega River Estuary and Tributaries Water Source,
  - (c) 25 unit shares in the Bobundra Creek Water Source,
  - (d) 750 unit shares in the Mid Bega River Sands Water Source,
  - (e) 30 unit shares in the Wolumla Creek Water Source.
- (6) On the commencement of this Plan, the share components of regulated river (high security) access licences are estimated to be a total of 1,113.5 unit shares in the Bega and Brogo Regulated Rivers Water Source.
- (7) On the commencement of this Plan, the share components of regulated river (general security) access licences are estimated to be a total of 13,907 unit shares in the Bega and Brogo Regulated Rivers Water Source.
- (8) On the commencement of this Plan, the share components of supplementary water access licences are estimated to be a total of 1,300 unit shares in the Bega and Brogo Regulated Rivers Water Source.

**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—the Act, s 20(1)(e)

### Division 1 Available water determinations

#### 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 (A Class) access licences—1ML/unit share,
  - (e) for unregulated river (B Class) access licences—1ML/unit share,
  - (f) for unregulated river (C Class) access licences—1ML/unit share,
  - (g) for unregulated river (high flow) access licences—1ML/unit share,
  - (h) for aquifer access licences—1ML/unit share,
  - (i) for regulated river (high security) access licences—at least 0.8ML/unit share,
  - (j) for supplementary water access licences—1ML/unit share.

**Note**—When this Plan was made, there were no unregulated river (A Class) access licences, unregulated river (B Class) access licences, unregulated river (C Class) access licences, or unregulated river (high flow) access licences.
- (3) An available water determination for regulated river (general security) access licences, up to 1ML/unit share, may be made if—
  - (a) the sum of available water determinations made for regulated river (high security) access licences in a water year exceeds 0.8ML/unit share, and
  - (b) there is sufficient water available for the determination after providing for water losses associated with holding and delivering water to meet existing water allocations in the Bega and Brogo Regulated Rivers Water Source.
- (4) If additional water becomes available in the Bega and Brogo Regulated Rivers Water Source after an available water determination for regulated river (high security) access licences of less than 1ML/unit share is made, an additional available water determination for regulated river (high security) access licences must be made as soon as practicable.
- (5) For each 0.01ML/unit share the sum of the available water determinations for regulated river (high security) access licences exceeds 0.8ML/unit share in a water year, an available water determination must be made to increase the total available water determinations made for regulated river (general security) access licences in the water year by 0.02ML/unit share.
- (6) This section is subject to sections 22 and 26.



(7) In this section—

**existing water allocation** means an unused water allocation in a water allocation account arising from—

- (a) water allocations carried over from the previous water year,
- (b) water allocations assigned under the Act, s 71T,
- (c) water allocations recredited to the account under the Act, s 76,
- (d) available water determinations made in the water year.

**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

### 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 as planned environmental water.

#### 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 in the B Class or higher,

- (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 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 Bega and Brogo Regulated Rivers Extraction Management Unit—16,624ML/year,
- (b) for the Bega River Area Coastal Floodplain Alluvial Groundwater Extraction Management Unit—429ML/year,
- (c) for the Bega River Catchment Extraction Management Unit—40,342ML/year,
- (d) for the Murrah-Wallaga Extraction Management Unit—9,014ML/year,

**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 for 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 following must be compared against the standard LTAAEL for the extraction management unit for the water year—
- (a) for the Bega and Brogo Regulated Rivers Extraction Management Unit and the Bega River Area Coastal Floodplain Alluvial Groundwater Extraction Management Unit—the annual standard extraction for the extraction management unit for the water year,
- (b) for each other extraction management unit—the 3-year average standard extraction 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 annual standard extraction or the 3-year average standard extraction, as relevant for the extraction management unit, 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 noncompliance with the standard LTAAEL 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, which are likely to result in the extractions from the extraction management unit complying with the standard LTAAEL, must be made as follows—
  - (a) for the Bega and Brogo Regulated Rivers Extraction Management Unit—
    - (i) first, for supplementary water access licences, and
    - (ii) second, for regulated river (general security) access licences,
  - (b) otherwise—for one or both of—
    - (i) unregulated river access licences,
    - (ii) aquifer access licences.
- (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 as follows—

- (a) for the Bega and Brogo Regulated Rivers Extraction Management Unit and the Bega River Area Coastal Floodplain Alluvial Groundwater Extraction Management Unit—no limit,
- (b) for the Bega River Catchment Extraction Management Unit and the Murrumbidgee Wallaga Extraction Management Unit—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 for 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 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 following water year occurring immediately after a noncompliance 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 annual higher flow extraction limit, must be made for one or more categories of higher flow extraction licences.
- (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

- (1) The following total daily extraction limits (*TDELS*) apply to unregulated river access licences in the Upper Bega/Bemboka Rivers Water Source—
  - (a) in A Class flows—29.6ML/day,
  - (b) in B Class flows—61.6ML/day.
- (2) A TDEL of 0.2ML/day applies to domestic and stock access licences in the Upper Bega/Bemboka Rivers Water Source in A Class flows and B Class flows.
- (3) The following TDELS apply to access licences in the Mid Bega River Sands Water Source—
  - (a) 0.15ML/day for a domestic and stock access licence,
  - (b) in Very Low Flows—
    - (i) 5.79ML/day for an unregulated river access licence, and
    - (ii) 1.36ML/day for an aquifer access licence,
  - (c) in A1 Class Flows—
    - (i) 5.79ML/day for an unregulated river access licence, and
    - (ii) 1.36ML/day for an aquifer access licence,
  - (d) in A2 Class Flows—
    - (i) 9.72ML/day for an unregulated river access licence, and
    - (ii) 2.28ML/day for an aquifer access licence.
  - (e) in B Class Flows—
    - (i) 19.85ML/day for an unregulated river access licence, and
    - (ii) 4.65ML/day for an aquifer access licence.
- (4) If a TDEL which applies to an access licence is exceeded, the extraction component of access licences to which the TDEL applies may be amended to impose an individual daily extraction component.

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

### 28 Specific purpose access licences

- (1) A person may apply for the following specific purpose access licences—
- (a) an aquifer (Aboriginal community development) access licence, if—
    - (i) the licence is in the Bega River Area Coastal Floodplain Alluvial Groundwater Source, and
    - (ii) the sum of share components of aquifer access licences in the Bega River Area Coastal Floodplain Alluvial Groundwater Source is no more than 343ML/year,
  - (b) an unregulated river (Aboriginal community development) access licence in the following water sources, if the sum of share components of unregulated (C Class) access licences and unregulated river (Aboriginal community development) access licences in the water source concerned is no more than—
    - (i) for the Candelo Creek Water Source—368ML/year,
    - (ii) for the Dry River Water Source—1,558ML/year,
    - (iii) for the Lower Bega/Lower Brogo Rivers Tributaries Water Source—1,359ML/year,
    - (iv) for the Mid Bega River Sands Water Source—743ML/year,
    - (v) for the Mid Bega River Tributaries Water Source—1,359ML/year,
    - (vi) for the Narira Creek Water Source—1,243ML/year,
    - (vii) for the Sandy Creek Water Source—184ML/year,
    - (viii) for the Upper Bega/Bemboka Rivers Water Source—2,220ML/year,
    - (ix) for the Upper Bega/Bemboka Rivers Tributaries Water Source—1,359ML/year,
    - (x) for the Wolumla Creek Water Source—184ML/year.
  - (c) an unregulated river (Aboriginal community development) access licence in the Tantawangalo Creek Water Source—
    - (i) for the taking of water from B Class flows in the Lower Tantawangalo Creek Management Zone, if the sum of share components of unregulated river (B Class) access licences and unregulated river (Aboriginal community development) access licences with an extraction component specifying the management zone is no more than 1,271ML/year, or
    - (ii) for the taking of water from C Class flows in the Lower Tantawangalo Creek Management Zone, if the sum of share components of unregulated river (C Class) access licences and unregulated river (Aboriginal community development) access licences with an extraction component specifying the management zone is no more than 1,592ML/year.
- 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).
- (2) 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.

- (3) 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.
- (4) 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 under 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)

**Note—** Clause 17 of the *Water Management (General) Regulation 2018* also includes provisions regarding the debiting of water allocation accounts.

#### 31 Water allocation account debiting

- (1) The volume of water debited from the water allocation account of an access licence, other than an aquifer access licence in the Bega River Area Coastal Floodplain Alluvial Groundwater Source and an access licence in the Bega and Brogo Regulated Rivers Water Source, must not be more than the relevant sum during a period of 3 consecutive water years.
- (2) The Minister must debit water allocations from the water allocation account of an access licence for the take of water from uncontrolled flows—
  - (a) only if the sum of the following exceeds 1ML per unit share of the licence—
    - (i) the total volume of water taken under the access licence from uncontrolled flows in a water year, plus
    - (ii) the total amount of allocations credited to the licence by available water determinations during the water year, and
  - (b) in an amount equivalent to the exceedance.

- (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 three 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 aquifer access licence in the Bega River Area Coastal Floodplain Alluvial Groundwater Source or a supplementary water access licence in the Bega and

- Brogo Regulated Rivers Water Source—must not be carried over from one water year to the next water year, or
- (b) for a regulated river access licence in the Bega and Brogo Regulated Rivers Water Source—must not be carried over from one water year to the next water year unless—
- (i) the licence is a regulated river (high security) access licence, and
  - (ii) the available water determination made at the commencement of the following water year will be less than 0.8 ML per unit share, and
  - (iii) the volume carried over does not exceed an amount equivalent to 0.1 ML per unit share of access licence share component, or
- (c) 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 and management zones specified.
- (2) In Schedule 1, the flow class applies when the water source or management zone flow meets the flow specified under the flow class threshold for the water source or management zone as measured or observed at the flow reference point specified.

#### **34 Minister may determine flow classes in certain circumstances**

- (1) If the Minister is satisfied 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) reading 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)**

#### **Subdivision 1 Regulated surface water**

##### **34A Application of Subdivision**

This Subdivision applies to the Bega and Brogo Regulated Rivers Water Source.



**34B General**

- (1) Water must not be taken under an access licence in the water source unless—
  - (a) the licence holder has placed an order for water in the approved form, and
  - (b) the water order has been approved.
- (2) Subsection (1) does not apply to water taken under a supplementary water access licence or the taking of water from uncontrolled flows in accordance with section 34C.

**34C Specific access rules—uncontrolled flows**

- (1) This section applies to the taking of water from uncontrolled flows under a regulated river (general security) access licence—
  - (a) with a share component that specifies the Bega and Brogo Regulated Rivers Water Source, and
  - (b) that nominates a metered work.
- (2) Water must not be taken unless—
  - (a) the take is from a river reach specified in Schedule 1A,
  - (b) flows are—
    - (i) in excess of the flows necessary to satisfy the operational rules for the Brogo Dam in Part 6A, Division 2, and
    - (ii) sufficient to satisfy the access rules specified for the river reach in the table to this section, and
  - (c) in accordance with a notice approved by the Minister and published on the WaterNSW website specifying—
    - (i) the period for which water from uncontrolled flows within the river reach is available to be taken by access licence holders (the *uncontrolled flow event*),
    - (ii) the volume of the uncontrolled flows, and
    - (iii) any limits on the volume of water that may be extracted under an access licence during the uncontrolled flow event.
- (3) Water must not be taken from uncontrolled flows if there is insufficient water remaining in the water allocation account of the access licence following a debit for the take of water from uncontrolled flows under section 31(2).

**Table—Access rules for uncontrolled flows**

River reach	Access rule for commencing take of water
1A	Either— <ul style="list-style-type: none"> <li>(a) the discharge over the Brogo Dam spillway in the immediately preceding 24 hour period has been more than 50ML/day on a rising river and 20ML/day on a falling river, or</li> <li>(b) a discharge through the control valves of the Brogo Dam in the immediately preceding period has prevented a spillage over the spillway.</li> </ul>
1B	Both— <ul style="list-style-type: none"> <li>(a) the access rule specified for river reach 1A is satisfied, and</li> <li>(b) the flows at the North Brogo gauge (219013) have exceeded 50ML/day for at least 24 hours on a rising river and 20ML/day on a falling river.</li> </ul>

- |    |  |
|----|--|
| 1C | The flow must be sufficient to ensure that the flows at the Angledale gauge (219025) exceed 50ML/day for at least 24 hours on a rising river and 20ML/day on a falling river.  |
| 2  | Either— <ul style="list-style-type: none"> <li>(a) the river flows at the Angledale gauge (219025) have exceeded 50ML/day for at least 24 hours on a rising river and 20ML/day on a falling river, or</li> <li>(b) the flows at the Kanoona gauge (219032) have exceeded 65 ML/day for at least 24 hours.</li> </ul> |

**34D Specific access rules—supplementary flows**

- (1) This section applies to the taking of water under a supplementary water access licence.
- (2) Water must not be taken unless—
  - (a) the take is from a river reach specified in Schedule 1A,
  - (b) flows are—
    - (i) in excess of the flows necessary to satisfy the operational rules for the Brogo Dam in Part 6A, Division 2,
    - (ii) in excess of the flows necessary to satisfy the volume required to supply water for basic landholder rights and higher priority access licences, within the meaning of the Act, s 58, in the water source, and
    - (iii) sufficient to satisfy the access rules specified for the river reach in the table to this section, and
  - (c) in accordance with a notice approved by the Minister and published on the WaterNSW website specifying—
    - (i) the period for which supplementary water within the river reach is available to be taken, and
    - (ii) the volume of the supplementary flows.

**Table—Access rules for supplementary flows**

<b>River reach</b>	<b>Access rule for commencing take of water</b>
1A	Either— <ul style="list-style-type: none"> <li>(a) the discharge over the Brogo Dam spillway in the immediately preceding 24 hour period has been in excess of 100ML/day, or</li> <li>(b) a discharge through the control valves in the immediate preceding 24 hour period has prevented a spillage over the spillway.</li> </ul>
1B	Both— <ul style="list-style-type: none"> <li>(a) the access rule specified for river reach 1A is satisfied, and</li> <li>(b) the flows at the North Brogo gauge (219013) have exceeded 100ML/day for at least 24 hours.</li> </ul>
1C	The flow must be sufficient to ensure that the flows at the Angledale gauge (219025) exceed 100ML/day for at least 24 hours.
2	Either— <ul style="list-style-type: none"> <li>(a) the river flows at the Angledale gauge (219025) have exceeded 100ML/day for at least 24 hours, or</li> <li>(b) the flows at the Kanoona gauge (219032) have exceeded</li> </ul>

160ML/day for at least 24 hours.

## **Subdivision 2 Unregulated surface water**

### **34E Application of Subdivision**

This Subdivision does not apply to the Bega and Brogo Regulated Rivers Water Source or the Bega River Area Coastal Floodplain Alluvial Groundwater Source.

### **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—
    - (i) in the Murrah-Wallaga Extraction Management Unit, that is below full capacity, or
    - (ii) in the Bega River Catchment Extraction Management Unit, that is below 50% of 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 under an access licence if flows in the water source or management zone are in the Very Low Flow Class.
- (2) Surface water must not be taken under—
  - (a) an unregulated river (A Class) access licence unless flows are in the A Class or higher,
  - (b) an unregulated river (B Class) access licence unless flows are in the B Class or higher,
  - (c) an unregulated river (C Class) access licence unless flows are in the C Class.
- (3) Surface water must not be taken under an access licence of the subcategory Aboriginal community development—
  - (a) for the taking of water from B Class flows in the Lower Tantawangalo Creek Management Zone—unless flows are in the B Class or higher,
  - (b) for the taking of water from C Class flows in the Lower Tantawangalo Creek Management Zone—unless flows are in the C Class or higher,
  - (c) in all other water sources and management zones—unless flows are in the C Class or higher.
- (4) If flows in the following water sources and management zone have been in the Very Low Flow Class for 30 or more consecutive days, surface water must not be taken under an access licence in the water source or with an extraction component specifying the

- management zone for 24 hours after flows next exceed the upper limit of the Very Low Flow Class—
- (a) the Bermagui River Water Source,
  - (b) the Candelo Creek Water Source,
  - (c) the Dry River Water Source,
  - (d) the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (e) the Lower Tantawangalo Creek Management Zone,
  - (f) the Mid Bega River Sands Water Source,
  - (g) the Mid Bega River Tributaries Water Source,
  - (h) the Murrah River Water Source,
  - (i) the Narira Creek Water Source,
  - (j) the Sandy Creek Water Source,
  - (k) the Upper Bega/Bemboka Rivers Tributaries Water Source,
  - (l) the Upper Bega/Bemboka Rivers Water Source,
  - (m) the Wolumla Creek Water Source.
- (5) If flows in the following water sources have been in the A Class or lower for 30 or more consecutive days, surface water must not be taken under an access licence in the water source for 24 hours after flows next exceed the upper limit of the A class—
- (a) the Candelo Creek Water Source,
  - (b) the Lower Bega/Lower Brogo Rivers Tributaries Water Source,
  - (c) the Mid Bega River Tributaries Water Source,
  - (d) the Sandy Creek Water Source,
  - (e) the Upper Bega/Bemboka Rivers Tributaries Water Source,
  - (f) the Wolumla Creek Water Source.
- (6) If flows in the following water sources and management zone have been in the B Class or lower for 30 or more consecutive days, surface water must not be taken under an access licence in the water source or with an extraction component specifying the management zone for 24 hours after flows next exceed the upper limit of the B class—
- (a) the Lower Tantawangalo Creek Management Zone,
  - (b) the Mid Bega River Sands Water Source,
  - (c) the Upper Bega/Bemboka Rivers Water Source.
- (7) Surface water must not be taken from the Upper Bega/Bemboka Rivers Water Source under access licence 23756 unless—
- (a) flows are in the C Class , or
  - (b) the total volume of water taken is no more than—
    - (i) 0.5ML/day, or
    - (ii) if water releases are being made from the Cochrane Dam Drought Reserve, 0.2ML/day.

- (8) Surface water must not be taken from the Upper Tantawangalo Creek Management Zone under access licence 23486 unless—
  - (a) flows at the Tantawangalo Creek gauge are at least 4ML/day, and
  - (b) no more than 50% of the flow is taken, up to a maximum of 5ML/day.
- (9) Surface water must not be taken from the Dignams Creek Water Source when there is no visible flow at the nearest rock bar downstream of the location at which the water is taken.
- (10) Surface water must not be taken under an access licence specified in Schedule 3 in contravention of the specified cease-to-take condition.
- (11) In this section—

***Tantawangalo Creek gauge*** means the Tantawangalo Creek at Tantawangalo Mountain site gauge (219006).

### **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—
  - (a) in the Murrumbidgee-Wallaga Extraction Management Unit, when the off-river pool is below full capacity,
  - (b) in the Bega River Catchment Extraction Management Unit, when the off-river pool is below 50% of 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 authorised 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 C 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.
  - (f) under access licence 23542 or 23755, if the take is for the purposes of power generation,

- (3) Section 35(1) does not apply to—
  - (a) the Dignams Creek Water Source,
  - (b) the take of surface water in the Mid Bega River Sands Water Source under an unregulated river access licence.
- (4) Sections 36(1) – (9) do not apply to an access licence specified in Schedule 3.
- (5) Section 36 does not apply to the take of surface water in the following circumstances—
  - (a) from an off-river pool in a water source or management zone to which that section applies, or
  - (b) from an in-river dam pool formed by an in-river dam that is referred to in a water supply work approval.

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

### **37A Application of Division**

This Division does not apply to the Bega and Brogo Regulated Rivers Water Source or the Bega River Area 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—
  - (i) an in-river pool that is below full capacity, or
  - (ii) an off-river pool—
    - A. in the Murrah-Wallaga Extraction Management Unit, that is below full capacity, or
    - B. in the Bega River Catchment Extraction Management Unit, that is below 50% of full capacity, or
- (c) if flows in the water source or management zone are in the Very Low Flow Class.

### **39 Specific access rules**

- (1) Groundwater must not be taken under an access licence of the subcategory Aboriginal community development in the following water sources or with an extraction component specifying the management zones unless flows are in the specified flow class or higher—
  - (a) in the Lower Tantawangalo Creek Management Zone—B Class,
  - (b) in all other water sources and management zones—C Class.
- (2) Groundwater must not be taken from the Mid Bega River Sands Water Source under local water utility access licence 43652 if—
  - (a) flows are in the A1 Flow Class, unless the total volume of water taken is not more than 4.7ML/day,
  - (b) flows are in A2 Class, unless the total volume of water taken is not more than 6.7ML/day,
  - (c) flows are in B Class, unless the total volume of water taken is not more than 12.8ML/day.

- (3) Groundwater must not be taken under an access licence specified in Schedule 3 in contravention of the specified cease-to-take condition.

#### **40 Exceptions**

- (1) Sections 38 and 39 do 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 B 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 authorised 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 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.
  - (d) using a water supply work that is not located on waterfront land in the Bega River Catchment Extraction Management Unit.
- (2) Sections 38 and 39(1) – (2) do not apply to an access licence specified in Schedule 3.
- (3) Section 38(c) does not apply to the take of groundwater in the Mid Bega River Sands Water Source under local water utility access licence 43652 if the total volume of water taken is no more than 3.5ML/day.

## Part 6A Rules for major utility and other storages—the Act, s 21(a)

### Division 1 Preliminary

#### 40A Definitions

In this Part—

*dam operator* means the holder of a water supply work approval relating to the Brogo Dam or the Cochrane Dam.

*Cochrane Dam Drought Reserve*—see section 40F(1).

*Cochrane Dam Drought Reserve Account* means an account of the water credited to and debited from the Cochrane Dam Drought Reserve.

*full supply level* means the normal maximum operating water level of a water storage when not affected by floods.

*specified purpose* means the following purposes—

- (a) to meet the requirements of an access licence specified in Schedule 2,
- (b) to maintain river connectivity between Cochrane Dam and Kanoona gauge (219032),
- (c) to satisfy basic landholder rights,
- (d) town water supply,
- (e) another purpose the Minister considers essential to meet critical human or environmental needs.

### Division 2 Brogo Dam

#### 40B Application

- (1) This Division applies to the Bega and Brogo Regulated Rivers Water Source.
- (2) The dam operator for the Brogo Dam must operate the dam in accordance with this Division.

#### 40C Storage and release of water in Brogo Dam

- (1) Sufficient volumes of water must be held in the Brogo Dam to satisfy the following rights and available water determinations in the water source through a repeat of the worst period of low inflows to the water source based on historical flow information held by the Department when this Plan commenced—
  - (a) native title rights,
  - (b) domestic and stock rights,
  - (c) available water determinations of 100% of access licence share component for—
    - (i) domestic and stock access licences, and
    - (ii) local water utility access licences,
  - (d) available water determinations of 0.8ML/unit share of share component for regulated river (high security) access licences.
- (2) When the volume of water in Brogo Dam is 20% of full supply level or more, the daily inflow to the dam must be released, up to a maximum of 15ML/day.
- (3) A release under subsection (2) must not be used to meet a water order or a basic landholder rights requirement in river reach 1A.



- (4) At the end of a flood or spilling of water, the level in the Brogo Dam must not be reduced below full supply level, except in order to meet release requirements, unless maintaining the level in the Brogo Dam at full supply level would be unsafe.

#### **40D General priority of extractions**

The following priority of extraction applies when supply capability is insufficient to satisfy orders for water in a section of the water source—

- (a) water must first be supplied to the following licences that have placed orders for water—
  - (i) first—domestic and stock access licences,
  - (ii) second—local water utility access licences,
  - (iii) third—regulated river (high security) access licences,
- (b) remaining water must be shared between regulated river (general security) access licences that have placed orders for water, in the same shares as the share components specified on the access licences.

### **Division 3 Cochrane Dam**

#### **40E Application**

- (1) This Division applies to the Upper Bega/Bemboka Rivers Water Source.
- (2) The dam operator for the Cochrane Dam must operate the dam and the Cochrane Dam Drought Reserve account in accordance with this Division.

#### **40F Managing the Cochrane Dam Drought Reserve account**

- (1) The following water (the *Cochrane Dam Drought Reserve*) must be set aside in Cochrane Dam and credited to the Cochrane Dam Drought Reserve Account in each water year—
  - (a) 500ML on 1 July, if, as at 31 March—
    - (i) the Combined Drought Indicator indicates a Drought or an Intense Drought Phase, and
    - (ii) inflows to the Cochrane Dam for the 3 months before 31 March are less than 599ML,
  - (b) a volume of water so that there is 800ML in the Cochrane Dam Drought Reserve Account on 1 October, if, as at 1 July—
    - (i) the Combined Drought Indicator indicates a Drought or an Intense Drought Phase, and
    - (ii) inflows to the Cochrane Dam for the 3 months before 1 July are less than 569ML,
  - (c) 500ML on 1 October if paragraph (b) did not apply.
- (2) If subsection (1)(a) applies but the volume of water in Cochrane Dam is insufficient to set aside 500ML on 1 July, the following must be set aside and credited to satisfy the subsection—
  - (a) the maximum water available to be set aside and credited to the account on 1 July,
  - (b) the following sum—
    - (i) the next 500ML of inflows to Cochrane Dam, minus
    - (ii) the volume of water already in the Cochrane Dam Drought Reserve Account.

- (3) If subsection (1)(b) applies but the volume of water in Cochrane Dam is insufficient to set aside enough water so that there is a total of 800ML in the Cochrane Dam Drought Reserve Account on 1 October, the following must be set aside and credited to satisfy the subsection—
  - (a) the maximum water available to be set aside and credited to the account on 1 July,
  - (b) the following sum—
    - (i) the next 800ML of inflows to Cochrane Dam, minus
    - (ii) the volume of water already in the Cochrane Dam Drought Reserve Account.
- (4) Water released from Cochrane Dam for a specified purpose must be debited from the Cochrane Dam Drought Reserve Account.
- (5) If water is set aside under subsection (1)(b) or (3) and the Combined Drought Indicator ceases to indicate a Drought or an Intense Drought Phase before 31 March, the Cochrane Dam Drought Reserve account must be reduced to equal—
  - (a) 500ML, minus
  - (b) a volume equivalent to water already released for any specified purpose since the previous 1 October (up to 500ML).
- (6) Water remaining in the Cochrane Dam Drought Reserve Account must not be carried over from one water year to the next.
- (7) In this section—

***Combined Drought Indicator*** means the Combined Drought Indicator for the Bega Valley Area of South East NSW developed by the Department of Primary Industries to provide detailed seasonal conditions information for NSW primary producers.

**40G Releases of water from Cochrane Dam and the Cochrane Dam Drought Reserve**

- (1) Between 1 October and 31 March in each water year, the lesser of the following must be released on a daily basis—
  - (a) 3.5ML/day,
  - (b) the inflow to Cochrane Dam on that day, as measured at the Cochrane Dam storage gauge (219033).
- (2) Subsection (1) does not apply on a day that water is released from Cochrane Dam Drought Reserve.
- (3) Water from the Cochrane Dam Drought Reserve—
  - (a) may be released for a specified purpose,
  - (b) must not be released unless, in the Minister’s opinion, the release is for a specified purpose.
- (4) Water must not be released from Cochrane Dam except for a specified purpose—
  - (a) if the circumstances in section 40F(1)(b) apply on 1 July—from 1 July to 30 September, unless there is sufficient water in Cochrane Dam to satisfy section 40F(1)(b),
  - (b) if section 40F(1)(c) applied and then section 40F(1)(a) is satisfied—unless there is sufficient water in Cochrane Dam to set aside 500ML for the Cochrane Dam Drought Reserve on the following 1 October,
  - (c) if section 40F(2) applies—until that section has been satisfied,

- (d) if section 40F(3) applies—until that section has been satisfied.

## **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).

### **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 4 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**

- (1) An in-river dam on a third order or higher stream must not be constructed within the following water sources—
  - (a) the Barragoot Lake Tributaries Water Source,
  - (b) the Bega and Brogo Regulated Rivers Water Source,
  - (c) the Bega River Estuary and Tributaries Water Source,
  - (d) the Bermagui River Water Source,
  - (e) the Bobundra Creek Water Source,
  - (f) the Candelo Creek Water Source,
  - (g) the Cuttagee Lake Tributaries Water Source,
  - (h) the Dignams Creek Water Source,
  - (i) the Dry River Water Source,
  - (j) the Mid Bega River Sands Water Source,
  - (k) the Middle Lagoon Tributaries Water Source,
  - (l) the Murrah Estuary Tributaries Water Source,
  - (m) the Murrah River Water Source,
  - (n) the Narira Creek Water Source,
  - (o) the Nelson Lagoon Tributaries Water Source,
  - (p) the Sandy Creek Water Source,
  - (q) the Tantawangalo Creek Water Source,
  - (r) the Upper Bega/Bemboka Rivers Water Source,
  - (s) the Upper Brogo River Water Source,
  - (t) the Wallaga Lake Tributaries Water Source,

- (u) the Wapengo Lagoon Tributaries Water Source.
- (2) Subsection (1) does not apply to—
  - (a) a water supply work that replaces an existing water supply work that takes surface water where—
    - (i) the existing water supply work is authorised by a water supply work approval, and
    - (ii) the replacement surface water supply work is to be constructed to extract water from the same water source and the same location as the existing water supply work,
  - (b) a water supply work to be used for town water supply purposes by a local water utility.
- (3) Subsections (1)(f), (h), (i), (n), (p), and (q) do not apply to an in-river dam on a third order or higher stream for which an application for planning approval is submitted prior to 1 July 2024.
- (4) Subsection (3) is repealed on 1 July 2026.

#### **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 work**

- (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 or management zone 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 on waterfront land—at the same or a further distance away from the river, and
  - (d) has an internal diameter or excavation footprint the same as or less than the existing 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 only 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 the 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, in the Minister’s opinion—
  - (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 Groundwater-dependent ecosystems

- (1) A water supply work must not be constructed on land within the following areas—
  - (a) waterfront land,
  - (b) 200m of a high priority groundwater-dependent ecosystem unless, in the Minister’s opinion, there is not a high probability of groundwater dependence for the relevant 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, or
  - (d) in the Minister’s opinion, the location of the water supply work is likely to cause no more than minimal harm to the water source and its associated ecosystems and

ecological processes, high priority groundwater-dependent ecosystem, 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) in the Minister’s opinion, 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) waterfront land,
  - (b) 100m of a Government monitoring or observation bore,
  - (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) Subsections (1)(e) – (g) do 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 4 Water supply work approvals**

##### **50A Granting or amending water supply work approvals**

- (1) A water supply work approval must not be granted for a water supply work being used to take water in the following—
  - (a) the Barragoot Lake Tributaries Water Source,
  - (b) the Murrah Estuary Tributaries Water Source,
  - (c) the Nelson Lagoon Tributaries Water Source,
  - (d) the Upper Brogo River Water Source,
  - (e) the Upper Tantawangalo Creek Management Zone.
- (2) This section does not apply to water supply works used solely to take water 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,
- (b) an unregulated river access licence to an unregulated river (B Class) access licence or unregulated river (C Class) access licence with an extraction component specifying the Lower Tantawangalo Creek Management Zone, and the dealing will not cause the sum of share components of access licences with an extraction component specifying the management zone to exceed the following—
  - (i) for unregulated river (B Class) access licences and unregulated river (Aboriginal community development) access licences for the taking of water from B Class flows—1,271ML/year, and
  - (ii) for unregulated river (C Class) access licences and unregulated river (Aboriginal community development) access licences for the taking of water from C Class flows—1,592ML/year,
- (c) an unregulated river access licence to an unregulated river (C Class) access licence in the following water sources, and the dealing will not cause the sum of share components of unregulated river (C Class) access licences and unregulated river (Aboriginal community development) access licences to exceed the specified volume in the water source—
  - (i) in the Candelo Creek Water Source—368ML/year,
  - (ii) in the Dry River Water Source—1,558ML/year,
  - (iii) in the Lower Bega/Brogo Rivers Tributaries Water Source—1,359ML/year,
  - (iv) in the Mid Bega River Sands Water Source—743ML/year,
  - (v) in the Mid Bega River Tributaries Water Source—1,359ML/year,
  - (vi) in the Narira Creek Water Source—1,243ML/year,
  - (vii) in the Sandy Creek Water Source—184ML/year,
  - (viii) in the Upper Bega/Bemboka Rivers Water Source—2,220ML/year,
  - (ix) in the Upper Bega/Bemboka Tributaries Water Source—1,359ML/year,
  - (x) in the Wolumla Creek Water Source—184ML/year,
- (d) a regulated river (general security) access licence to a regulated river (high security) access licence,
- (e) a regulated river (high security) access licence to a regulated river (general security) access licence, and the dealing will not cause the sum of share components of all regulated river (general security) access licences to exceed 13,907 unit shares.

**Note—** The *Access Licence Dealing Principles Order 2004*, clause 11 regulates dealings under the Act, section 71O, including with respect to conversion factors.

## 52 Assignment of rights dealings

- (1) The following assignments of rights under the Act, section 71Q in the same water source are prohibited—
  - (a) an assignment of rights from an aquifer access licence that does not nominate a water supply work located on waterfront land to an access licence that does nominate a water supply work located on waterfront land,
  - (b) an assignment of rights to an access licence with an extraction component specifying a different management zone,
  - (c) an assignment to the following access licences in the Upper Bega/Bemboka Rivers Water Source, unless from another of the following access licences—
    - (i) WAL23787,
    - (ii) WAL23797,
    - (iii) WAL23721,
    - (iv) WAL23752,
    - (v) WAL23774,
    - (vi) WAL23764,
    - (vii) WAL23751.
- (2) The following assignment of rights under the Act, section 71Q between water sources in the same water management area are prohibited—
  - (a) an assignment of rights from an aquifer access licence that does not nominate a water supply work located on waterfront land to an access licence that does nominate a water supply work located on waterfront land,
  - (b) an assignment to an access licence in a different extraction management unit,
  - (c) an assignment to an access licence in a different water source, unless the assignment is from—
    - (i) an unregulated river access licence in the Upper Bega/Bemboka Rivers Water Source to an unregulated river access licence with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries Water Source, and the assignment will not cause the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries Water Source to exceed—
      - A. the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries on the commencement of this Plan, plus
      - B. 1,000ML/year,
    - (ii) an unregulated river (C Class) access licence in the Upper Bega/Bemboka Rivers Water Source to an unregulated river (C Class) access licence in the Upper Bega/Bemboka Rivers Tributaries Water Source, and the assignment will not cause the sum of share components of unregulated river (C Class) access licences in the Upper Bega/Bemboka Rivers Tributaries Water Source to exceed 1,359ML/year,

- (iii) an unregulated river (C Class) access licence in the Mid Bega River Sands Water Source to an unregulated river (C Class) access licence in the Mid Bega River Tributaries Water Source, and the assignment will not cause the sum of share components of unregulated river (C Class) access licences in Mid Bega River Tributaries Water Source to exceed 1,359ML/year,
- (iv) an unregulated river (C Class) access licence in one of the following water sources or with an extraction component specifying the management zone to an unregulated river (C Class) access licence in another of the following water sources or with an extraction component specifying the management zone, and the assignment will not cause the sum of share components of unregulated river (C Class) access licences in the water source or with an extraction component specifying the management zone to exceed the specified volume—
  - A. in the Candelo Creek Water Source—368ML/year,
  - B. in the Sandy Creek Water Source—184ML/year,
  - C. in the Lower Tantawangalo Creek Management Zone—1,592ML/year,
  - D. in the Wolumla Creek Water Source—184ML/year.

**53 Amendment of share component dealings—change of water source**

- (1) All dealings under the Act, section 71R are prohibited, except for the following—
  - (a) the cancellation of an unregulated river access licence in the Upper Bega/Bemboka Rivers Water Source to grant an unregulated river access licence with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Tributaries Water Source, if the dealing will not cause the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Tributaries Water Source to exceed—
    - (i) the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries on the commencement of this Plan, plus
    - (ii) 1,000ML/year,
  - (b) the cancellation of an unregulated river (C Class) access licence in the Upper Bega/Bemboka Rivers Water Source to grant an unregulated river (C Class) access licence in the Upper Bega/Bemboka Tributaries Water Source, if the dealing will not cause the sum of share components of unregulated river (C Class) access licences in the Upper Bega/Bemboka Tributaries Water Source to exceed 1,359ML/year,
  - (c) the cancellation of an unregulated river (C Class) access licence in the Mid Bega River Sands Water Source to grant an unregulated river (C Class) access licence in the Mid Bega River Tributaries Water Source, if the dealing will not cause the sum of share components of unregulated river (C Class) access licences in the Mid Bega River Tributaries Water Source to exceed 1,359ML/year,
  - (d) the cancellation of an unregulated river (C Class) access licence in one of the following water sources or with an extraction component specifying the management zone to grant an unregulated river (C Class) access licence in another of the following water sources or with an extraction component specifying the

management zone, if the dealing will not cause the sum of share components of unregulated (C Class) access licences in the water source or with an extraction component specifying the management zone to exceed the specified volume—

- (i) in the Candelo Creek Water Source—368ML/year,
  - (ii) in the Sandy Creek Water Source—184ML/year,
  - (iii) in the Lower Tantawangalo Creek Management Zone—1,592ML/year,
  - (iv) in the Wolumla Creek Water Source—184ML/year.
- (2) 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**

Dealings under the Act, section 71S(1)(b) are prohibited.

**Note—** The *Access Licence Dealing Principles Order 2004*, clause 16 regulates dealings under the Act, section 71S(1)(a).

#### **55 Assignment of water allocations dealings**

- (1) The following assignments of water allocations under the Act, section 71T are prohibited—
- (a) an assignment to an access licence with an extraction component specifying a different management zone,
  - (b) an assignment from an access licence to an access licence in a different extraction management unit,
  - (c) an assignment from an access licence in a different water source,
  - (d) an assignment from an access licence of a different category,
  - (e) an assignment to the following access licences in the Upper Bega/Bemboka Rivers Water Source, unless from another of the following access licences—
    - (i) WAL23787,
    - (ii) WAL23797,
    - (iii) WAL23721,
    - (iv) WAL23752,
    - (v) WAL23774,
    - (vi) WAL23764,
    - (vii) WAL23751.

#### **56 Interstate access licence transfer and assignment of water allocations dealings**

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

#### **57 Nominations of water supply works dealings**

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 access licence under which surface water may be taken being amended to nominate a water supply work authorised by its approval to take groundwater,

- (c) an aquifer access licence that does not nominate a water supply work located on waterfront land being amended to nominate a water supply work located on waterfront land,
- (d) an access licence being amended to nominate a water supply work located in a water source to which this Plan does not apply.

**Note**—The *Access Licence Dealing Principles Order 2004*, clause 20, and the *Water Management (General) Regulation 2018*, clause 12, regulate dealings under section 71W of the Act, including with respect to amending an access licence to nominate works in another water source or location.

## 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.

*mandatory metering equipment condition* has the same meaning as in the *Water Management (General) Regulation 2018*, clause 228.

*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) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department's website,
- (d) 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 the way in which the confirmation was established, in a Logbook.
- (2) Subsection (1) does not apply to a holder of—
  - (a) a regulated river (general security) access licence, or
  - (b) a regulated river (high security) access licence, or
  - (c) a supplementary water access licence.
- (3) 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.
- (4) Subsections (1)(b) and (3)(a) are repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the mandatory metering equipment condition applies to the water sources.

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

#### **60A Notification of meter readings for regulated river (general security) access licences**

If the holder of a regulated river (general security) access licence takes water from uncontrolled flows under section 34C, the holder must, within 7 days of the end of the take, provide Water NSW with—

- (a) a meter reading taken immediately before commencing the take, and
- (b) a meter reading taken immediately after the end of the take.

### **Division 3 Water supply work approvals**

#### **61 General conditions**

- (1) Each water supply work approval must be subject to the following mandatory conditions—
- (a) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department's website,
  - (b) 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,
  - (c) other conditions required to implement the provisions of this Plan, including conditions requiring compliance with sections 62 and 63.
- (2) The holder of a water supply work approval relating to the Cochrane Dam must keep the Cochrane Dam Drought Reserve Account established under Part 6A on a publicly accessible website.

#### **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 the way in which the confirmation was established, in a Logbook.



- (3) Subsection (2) does not apply to a holder of—
  - (a) a regulated river (general security) access licence,
  - (b) a regulated river (high security) access licence,
  - (c) a supplementary water access licence.
- (4) The approval holder must—
  - (a) record the following information in a Logbook whenever the water supply work 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 through 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.
- (5) 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 one Logbook.
- (6) Subsections (2)(b), (4)(a) and (5) are repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the mandatory metering equipment condition applies to the water sources.

**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 way 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*, 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.
- (3) This Division does not apply to a water supply work approval for an excavation up to 3m in depth in the Mid Bega River Sands Water Source.

### **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 a water bore 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 must, 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 water bore.

## 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,
    - (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 in accordance with the 2006 Harvestable Rights Order—to modify Parts 6–8 to protect critical environmental needs and basic landholder rights,
    - (i) to add, amend 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,
  - (l) to make amendments consequential on an amendment to the Act or regulations,
  - (m) to amend dealing rules for unregulated river access licences in the Upper Bega/Bemboka Rivers Tributaries Water Source if, within 5 years of the commencement of this Plan, an application for consent to a dealing under the Act, section 71Q or 71R, must be refused because the dealing would cause the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries Water Source to exceed—
    - (i) the sum of share components of unregulated river access licences with an extraction component specifying the Lower Tributary Management Zone of the Upper Bega/Bemboka Rivers Tributaries on the commencement of this Plan, plus
    - (ii) 1,000ML/year.
- (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(1)

Column 1	Column 2	Column 3	Column 4	Column 5
Water source	Management zone	Flow class	Flow class threshold	Flow reference point
Bermagui River		Very Low Flow Class	No more than 1.4ML/day	Narira Creek at Cobargo gauge (219016)
		A Class	More than 1.4ML/day	
Candelo Creek		Very Low Flow Class	No more than 3ML/day	Candelo Creek at Greenmount Road gauge (219034)
		A Class	More than 3ML/day and no more than 14ML/day	
		B Class	More than 14ML/day and no more than 35ML/day	
		C Class	More than 35ML/day	
Dry River		Very Low Flow Class	No more than 1.4ML/day	Murrah River at Quaama gauge (219018)
		A Class	More than 1.4ML/day and no more than 10ML/day	
		B Class	More than 10ML/day and no more than 74ML/day	
		C Class	More than 74ML/day	
Lower Bega/Lower Brogo Rivers Tributaries		Very Low Flow Class	No more than 2ML/day	Double Creek near Brogo gauge (219017)
		A Class	More than 2ML/day and no more than 28ML/day	
		B Class	More than 28ML/day and no more than 92ML/day	
		C Class	More than 92ML/day	
Mid Bega River Sands		Very Low Flow Class	No more than 4.5m AHD	Bega Borefield at The Ranch (GW039001)
		A1 Class	Each of the following— (a) more than 4.5AHD	Bega Borefield at The Ranch (GW039001)

Column 1	Column 2	Column 3	Column 4	Column 5	
Water source	Management zone	Flow class	Flow class threshold	Flow reference point	
Mid Bega River Tributaries		A2 Class	(b) no more than 65ML/day	Bega River at Kanoona gauge (219032)	
			(c) no visible flow	In the Bega River downstream of the Princes Highway	
		B Class	Each of the following—	(a) no more than 65ML/day	Bega River at Kanoona gauge (219032)
				(b) visible flow	In the Bega River downstream of the Princes Highway
			Each of the following—	(a) more than 65ML/day and no more than 160ML/day	Bega River at Kanoona gauge (219032)
				(b) visible flow	In the Bega River downstream of the Princes Highway
		C Class	More than 160ML/day	Bega River at Kanoona gauge (219032)	
		Very Low Flow Class	No more than 2ML/day	Double Creek near Brogo gauge (219017)	
		A Class	More than 2ML/day and no more than 28ML/day		
		B Class	More than 28ML/day and no more than 92ML/day		
C Class	More than 92ML/day				
Murrah River		Very Low Flow Class	No more than 1.4ML/day	Murrah River at Quaama gauge (219018)	
		A Class	More than 1.4ML/day and no more than 10ML/day		
		B Class	More than 10ML/day		

<b>Water source</b>	<b>Management zone</b>	<b>Flow class</b>	<b>Flow class threshold</b>	<b>Flow reference point</b>
Narira Creek		Very Low Flow Class	No more than 1.4ML/day	Narira Creek at Cobargo gauge (219016)
		A Class	More than 1.4ML/day and no more than 10ML/day	
		B Class	More than 10ML/day and no more than 90ML/day	
		C Class	More than 90ML/day	
Sandy Creek		Very Low Flow Class	No more than 3ML/day	Candelo Creek at Greenmount Road gauge (219034)
		A Class	More than 3ML/day and no more than 14ML/day	
		B Class	More than 14ML/day and no more than 35ML/day	
		C Class	More than 35ML/day	
Tantawangalo Creek	Lower Tantawangalo Creek	Very Low Flow Class	No more than 5ML/day	Tantawangalo Creek at Candelo Dam Site gauge (219022)
		A Class	More than 5ML/day and no more than 70ML/day	
		B Class	More than 70ML/day and no more than 192ML/day	
		C Class	More than 192ML/day	
Upper Bega/Bemboka Rivers		Very Low Flow Class	No more than 5ML/day	Bega River at Kanoona gauge (219032)
		A Class	More than 5ML/day and no more than 65ML/day	
		B Class	More than 65ML/day and no more than 160ML/day	



<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Water source</b>	<b>Management zone</b>	<b>Flow class</b>	<b>Flow class threshold</b>	<b>Flow reference point</b>
		C Class	More than 160ML/day	
Upper Bega/Bemboka Rivers Tributaries	Lower Tributary	Very Low Flow Class	No more than 2ML/day	Double Creek near Brogo gauge (219017)
		A Class	More than 2ML/day and no more than 28ML/day	
		B Class	More than 28ML/day and no more than 92ML/day	
	Upper Tributary	C Class	More than 92ML/day	Double Creek near Brogo gauge (219017)
		Very Low Flow Class	No more than 2ML/day	
		A Class	More than 2ML/day and no more than 28ML/day	
		B Class	More than 28ML/day	
Wolumla Creek		Very Low Flow Class	No more than 3ML/day	Candelo Creek at Greenmount Road gauge (219034)
		A Class	More than 3ML/day and no more than 14ML/day	
		B Class	More than 14ML/day and no more than 35ML/day	
		C Class	More than 35ML/day	

## Schedule 1A River reaches in the Bega and Brogo Regulated Rivers Water Source

sections 34C(2)(a) and 34D(2)(a)

River reach	Definition
1A	Brogo River from the upper reaches of Brogo Dam storage to the North Brogo gauge (219013)
1B	Brogo River from the North Brogo gauge (219013) to the Angledale gauge (219025)
1C	Brogo River from the Angledale gauge (219025) to the Bega River junction
2	Bega River from the Brogo River junction to the end of the regulated river

## Schedule 2 Access licences exempt from specified access rules

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

**Table A—Access licences used to take surface water other than for town water supply purposes**

Water Source	Management zone	Access licence numbers
Bermagui River		23129, 23123
Bobundra Creek		23136
Candelo Creek		23432, 23439
Dry River		23139, 23150, 23154, 23165, 23175
Lower Bega/Lower Brogo Tributaries		23703, 23704, 23705, 23711, 23695, 23707
Mid Bega River Sands		23459, 23469, 30030
Mid Bega River Tributaries		23391
Narira Creek		23189, 23202, 29585
Sandy Creek		24074, 24081, 24084, 30022,
Tantawangalo Creek	Lower Tantawangalo Creek	23483, 23493, 23499, 23500
Upper Bega/Upper Bemboka Rivers		23720, 23722, 23746, 23747, 23795, 23733, 23763, 23790
Upper Bega/Upper Bemboka Rivers Tributaries		23523, 23525, 23530, 23533,
Wallaga Lakes Tributaries		23206
Wolumla Creek		23398, 23422

**Table B—Access licences used to take groundwater other than for town water supply purposes**

Water Source	Management zone	Access licence numbers
Bega River Estuary and Tributaries Water Source		23580

**Table C—Local water utility access licences**

Water Source	Management zone	Access licence numbers
Mid Bega River Sands		43652
Wallaga Lake Tributaries		23204, 23205

### Schedule 3 Access licences and approvals subject to cease-to-take condition of a former entitlement

sections 36(1), 37(4), 39(3) and 40(2)

**Table A—Access licences subject to cease-to-take conditions relating to the taking of water for the purposes of dam filling**

Access licence number	Water source and management zone (if applicable)	Cease-to-take condition
23143	Dry River Water Source	Water must not be taken for dam filling when flows in the Murrumbidgee River at the Quaama gauge (219018) are 10ML/day or less.
25173	Dry River Water Source	Water must not be taken for dam filling when flows in the Murrumbidgee River at the Quaama gauge (219018) are 2.5ML/day or less.
23489, 23497, 23506, 23509	Lower Tantawangalo Creek Management Zone of the Tantawangalo Creek Water Source	Water must not be taken for dam filling when flows in the Tantawangalo Creek at the Candelo dam site gauge (219022) are 25ML/day or less.
23491	Lower Tantawangalo Creek Management Zone of the Tantawangalo Creek Water Source	Water must not be taken for dam filling when flows in the Tantawangalo Creek at the Candelo dam site gauge (219022) are 85ML/day or less.
23184	Narira Creek Water Source	Water must not be taken for dam filling when— (a) flows in the Murrumbidgee River at the Quaama gauge (219018) are 2.5ML/day or less, or (b) flows in Narira Creek at the Cobargo gauge (219016) are 3ML/day or less.
23751, 23778	Upper Bega/Bemboka Rivers Water Source	Water must not be taken for dam filling when flows in the Bega River at the Kanoona gauge (219032) are 65ML/day or less.
23787	Upper Bega/Bemboka Rivers Water Source	Water must not be taken for dam filling when flows in the Bemboka River at the Moran's Crossing gauge (219003) are 60ML/day or less.
23398	Wolumla Creek Water Source	Water must not be taken for dam filling when flows in the Tantawangalo Creek at the Candelo dam site gauge (219022) are 100ML/day or less.

**Table B—Access licences subject to other cease-to-take conditions**

<b>Access licence number</b>	<b>Water source</b>	<b>Cease-to-take condition</b>
23160	Dry River Water Source	Water must not be taken for irrigation when flows in the Murrah River at the Quaama gauge (219018) are less than 2.6ML/day.
23455	Mid Bega River Sands Water Source	Water must not be taken when flows in the Bega River at Kanoona gauge (219032) are less than 45ML/day.
23198	Narira Creek Water Source	Water must not be taken for industrial (nursery) purposes when flows in Narira Creek at the Cobargo gauge (219016) are 6ML/day or less.
23199	Narira Creek Water Source	No more than a total of 35ML/year of licensed entitlement may be taken for irrigation or dam filling on days when flows in Narira Creek at the Cobargo gauge (219016) are 4ML/day or less.
23411	Wolumla Creek Water Source	Water must not be taken when flows in Candelo Creek at the Greenmount gauge (219034) are less than 14ML/day.

**Table C—Access licences subject to other take conditions in the Upper Bega/Bemboka Rivers Water Source**

<b>Access licence number</b>	<b>Cease-to-take condition</b>
23721, 23751, 23752, 23764, 23787, 23797	Water must not be taken for irrigation when flows in the Bemboka River at Moran’s Crossing gauge site (219003) are less than 60ML/day.
23774	Water must not be taken for industrial purposes when flows in the Bega River at Kanoona gauge site (219032) are less than 70ML/day.

## Schedule 4 Contamination sources

section 46(5)

Contamination sources are as follows—

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

## Schedule 5 Dictionary

**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

**AHD** has the same meaning as Australian Height Datum in the *Surveying and Spatial Information Act 2002*, section 3(1).

**AS 4747**—see section 58.

**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 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 the *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](http://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 beneath the ground surface in a 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 Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023 High Priority Groundwater-Dependent Ecosystem Map (GDE034\_Version 1)*.

**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 in 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 58.

**Minimum Construction Requirements for Water Bores in Australia**—see section 58.

**metered work** has the same meaning as in the Act, section 91I.

**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 58.

**Plan Map** means the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023 Plan Map (WSP010\_Version 2)*.

**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 determinations**—see section 18.

**replacement groundwater work**—see section 44.

**river reach**—see Schedule 1A.

**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*.

**the water sources**—see section 3.

**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.

**visible flow** means the continuous perceptible downstream movement of water.

**water account debit**—see section 57.

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

**wetland** means either of the following—

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