

Water Sharing Plan for the Toorumbree Creek Water Source 2003 (2002 SI 1036)

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New South Wales

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Water Sharing Plan for the Toorumbree Creek Water Source 2003 (2002 SI 1036)



New South Wales

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Toorumbree Creek Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2004 and ceases 10 years after that date.

4 Area and waters to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Mid North Coast Water Management Area known as the Toorumbree Creek Water Source (hereafter **this water source**) as shown in Schedule 2.

Note—

The Mid North Coast Water Management Area is shown on the map in Appendix 1.

- (2) The waters of this water source includes all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (3) The waters of this water source exclude all water contained within aquifers underlying

this water source.

5 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

6 Inspection of detailed maps

Maps referred to in this Plan may be inspected at locations listed in Appendix 2.

7 Effect on licences, authorities and permits under the [Water Act 1912](#)

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note—

To the extent possible, the rules embodied in this Plan will apply to matters administered under the [Water Act 1912](#) in the interim.

8 State Water Management Outcomes Plan

- (1) This Plan is consistent with the State Water Management Outcomes Plan (hereafter **SWMOP**) in accordance with section 16 (1) (a) of the Act.
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Note—

The SWMOP applying at the commencement of this Plan is that gazetted on 20 December 2002 under section 6 of the Act.

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

This Part is made in accordance with section 35 (1) of the Act.

10 Vision

The vision for this Plan is that the water needs of the communities dependent on Toorumbee Creek Water Source are addressed, in the context of maintaining its high conservation values.

11 Objectives

The objectives of this Plan are to:

- (a) preserve the high conservation values of the Toorumbee Creek Water Source by limiting extraction from the river to basic landholder rights users, domestic and stock and unregulated river (Aboriginal cultural) access licence users, and by encouraging these users to adopt efficient practices during periods of very low flows,
- (b) maintain high quality waters in the Toorumbee Creek Water Source,
- (c) maintain or improve the overall health of the Macleay River catchment, its estuary and adjoining inshore waters, by enabling sufficient contributions to this system from Toorumbee Creek flows,
- (d) protect and enhance water dependent ecosystems, threatened species and endangered ecological communities within the river by allowing only the holders of domestic and stock rights, native title rights, and domestic and stock and unregulated river (Aboriginal cultural) access licence users access to flows,
- (e) protect water quality and habitat by protecting freshes and low flows throughout the river system by allowing only domestic and stock users, native title rights holders and Aboriginal people to access flows, and by encouraging these users to adopt efficient practices during periods of very low flows, and
- (f) recognise and protect Aboriginal heritage sites and values in access management and water licensing decisions.

12 Strategies

The strategies of this Plan are to:

- (a) identify and make provision for water requirements for basic landholder rights,
- (b) specify the circumstances in which access licences may be granted,
- (c) limit the amount of water that can be extracted on a daily,
- (d) limit the long-term average extraction of water,
- (e) clearly define access conditions for water extraction and rules for extracting water from this water source,

- (f) establish rules for determining the water available from time to time under access licences,
- (g) establish water allocation accounting rules,
- (h) specify mandatory conditions for access licences, and
- (i) specify the rules for water supply works approvals.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in ecological condition of this water source and dependent ecosystems,
- (d) extent to which basic landholder rights requirements have been met,
- (e) change in economic benefits derived from water extraction and use,
- (f) extent to which native title rights requirements have been met,
- (g) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (h) contribution to the achievement of water quality to support the environmental values of this water source.

Note—

Appendix 3 details the objectives to which these performance indicators relate and the proposed methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) This Plan recognises the high conservation value of this water source.

- (3) To give effect to subclauses (1) and (2), this Plan has provisions that:
- (a) manage limited access to the water in this water source, and
 - (b) enable the protection of the conservation values of this water source.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Macleay River Extraction Management Unit, and is shown on the map in Schedule 5.

Part 4 Environmental water provisions

17 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

18 Environmental health water

- (1) Environmental health water is identified and established as all flows occurring in this water source minus 0.025 megalitres per day (hereafter **ML/day**).
- (2) Environmental health water is maintained in all flows as follows:
 - (a) persons exercising domestic and stock and native title rights may extract water, and
 - (b) the holders of access licences have restricted access to water as specified in clauses 43 to 46,
 - (c) limits are imposed on the availability of water, in accordance with clauses 33 and 35, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note—

This Plan recognises that the environmental health water provisions provide benefits, including a non-extractive water source for traditional Aboriginal spiritual, social and cultural use, and contributes to improved water quality.

19 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

20 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

21 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

Part 5 Basic landholder rights

22 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

23 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.025 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note—

Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers in this water source and/or as a result of an increase of the exercise of basic rights by existing landholders.

24 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note—

Increase in use of native title rights may occur as a result of the granting of native title rights under the

Commonwealth's *Native Title Act 1993*.

Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

Part 6 Bulk access regime

26 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (d) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Divisions 1 and 2 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 3 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

Part 7 Requirements for water under access licences

27 Requirements for water under access licences

This Part is made in accordance with section 20 (1) (c) of the Act.

Note—

The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

28 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under licence within this water source will total zero megalitres per year (hereafter **ML/yr**).
- (2) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of the granting, surrender, cancellation or non-renewal of access licences.

Part 8 Rules for granting access licences

29 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water sources and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) domestic and stock access licences,
 - (b) an access licence resulting from an application of a type listed in section 82 (1) (c) and 82 (1) (d) of the Act, and
 - (c) unregulated river (Aboriginal cultural) access licences where the access licence share component does not exceed 10 ML/yr per application.

In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.

- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (7) Notwithstanding subclause (6) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

30 Aboriginal assessment of new access licences

- (1) The Minister should seek the views of the Bellbrook Local Aboriginal Land Council in relation to impacts on significant Aboriginal sites and appropriate mitigation measures, such as buffer distances, for all renewals and new access licence or water supply works approval applications.
- (2) The Minister should consider any advice under subclause (1) before making a determination of the access licence application.

Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

31 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

32 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Macleay River Extraction Management Unit (hereafter **this Unit**) referred to in clause 16 (2).

33 Long-term average extraction limit

The long-term average extraction limit for this Unit of which this water source is a part will be the total of:

- (a) the quantity of water specified in conditions attached to or included in components issued under Part 2 of the [Water Act 1912](#) in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water (excluding those exercised via a water bore) under:
 - (i) domestic and stock rights, and
 - (ii) native title rights,

in this water source at the commencement of this Plan.

34 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

35 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 33, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note—

A water accounting year is defined in clause 40 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination of two times the access licence share component should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for domestic and stock access licences should be 100% of the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be 100% of the access licence share component, except as provided in subclauses (g) and (h), and such determinations

should be made annually,

- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 33 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) when the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 33, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

Part 10 Rules for managing access licences

36 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b) and 21 (a) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 1 Water allocation account management

37 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

38 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

Note—

Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71G of the Act, where these are allowed under rules specified in Part 11 of this Plan.

Note—

Water allocations may also be re-credited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

39 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 35.

40 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous two available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access

licence may not exceed a volume consisting of:

- (a) twice the water allocation accrued under the licence that year,
- (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
- (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
- (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in that year.

(7) A water allocation account shall remain at or above zero at all times.

41 Three year accounting for water extraction

Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:

- (a) the water allocations accrued under the licence in those years,
- (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
- (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
- (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.

Division 2 Sharing flows on a daily basis

42 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

43 Total daily extraction limits

This Plan establishes a total daily extraction limit (hereafter **TDEL**) of 0.2 ML/day during all river flows in this water source.

44 Initial assignment of the TDEL to categories of access licence

The TDEL under clause 43 will initially be assigned to categories of access licences according to the following:

- (a) 0 ML/day for domestic and stock access licences, and
- (b) 0 ML/day for unregulated river (Aboriginal cultural) access licences.

45 Unassigned TDEL

At the commencement of this Plan, unassigned TDEL is as follows:

- (a) 0.1 ML/day for domestic and stock access licences, and
- (b) 0.1 ML/day for unregulated river (Aboriginal cultural) access licences.

Note—

Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's individual daily extraction limits, or the operation of Part 8 of this Plan.

46 Granting of unassigned TDEL

The unassigned TDEL in clause 45 may be assigned to individual access licences as individual daily extraction limits (hereafter **IDELs**) where they are applied for as part of a new access licence application in accordance with Part 8 of this Plan.

Part 11 Access licence dealing rules

47 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (e) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note—

The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

Note—

There are a number of mechanisms within the Act, called access licence dealings, to change either the ownership of all or part of an access licence, or the location within a water source at which all or part of the share and extraction components of access licences can be exercised. These dealings are governed by the principles in section 5 of the Act, the Minister's access licence dealing principles, and the rules in this Part.

Note—

Where there is an inconsistency between access licence dealing rules established in this Plan and Minister's access licence dealing principles gazetted subsequent to the commencement of this Plan, section 71L of the Act provides for the access licence dealing rules in this Plan to prevail.

48 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F, and 71J of the Act, and section 71G of the Act with respect to water allocation assignments within this water source.

(2) Dealings are prohibited under this clause if:

- (a) any of the access licences or water allocations involved are not within this water source, or
- (b) the dealing would result in more than minimal harm occurring to the water source and the environment.

49 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 49, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited.

50 Rules for change of water source

(1) This clause relates to dealings under section 71E of the Act.

Note—

Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.

- (2) Dealings that result in an access licence being cancelled in another water source and an access licence issued in this water source are prohibited.
- (3) Dealings that result in an access licence being cancelled in this water source and an access licence issued in another water source are prohibited.

51 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category in this water source are prohibited.

52 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

53 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or

from access licences in this water source are prohibited.

54 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Part 12 Mandatory conditions

55 Mandatory conditions on access licences

- (1) This Part is made in accordance with section 17 (c) and 20 (2) (c) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of share component of the access licence,
 - (b) the specification of extraction component of the access licence, including IDELS arising from the operation of Part 10 Division 2 of this Plan where applicable,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 1 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account, and
 - (f) any other conditions required to implement the provisions of this Plan.

56 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions such that water may only be taken at a rate not exceeding that specified on the access licence extraction component.

57 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act, and

- (b) water may only be taken at a rate not exceeding that specified on the access licence extraction component.

58 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing and gathering, and for recreational, cultural and ceremonial purposes, and
- (b) water may only be taken at a rate not exceeding that specified on the access licence extraction component.

59 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (d) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (e) where new licence applications are made in accordance with clause 29 and where an impact to endangered ecological communities is identified from the use of the water supply work, a minimum buffer of 100 metres will be applied between the identified endangered ecological community and the water supply work.

Part 13 Granting and amending water supply works approvals

60 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

61 Runoff harvesting dams

Applications for new runoff harvesting dams within this water source should not be approved.

62 In-river dams

Applications for new in-river dams within this water source should not be approved.

Note—

Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

Part 14 Monitoring and reporting

63 Monitoring and reporting of performance indicators

The monitoring and reporting of the performance indicators specified in clause 13 shall be undertaken by the Minister.

Note—

Review & Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

In accordance with section 44 of the Act, this Plan will be audited at intervals of no more than five years, for the purpose of ascertaining whether its provisions are being given effect to. This audit is to be carried out by an audit panel appointed by the Minister in consultation with the water management committee, where one exists.

Note—

The Implementation Program

In accordance with section 51 of the Act, the Minister may establish an Implementation Program that sets out the means by which the provisions of this Plan are to be achieved.

It is proposed that the Minister establish an Implementation Program for this Plan. Pursuant to section 51 (5) of the Act, the implementation program is to be reviewed annually by the Minister to determine whether it is effective in implementing this Plan.

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note—

An access licence water allocation account records water allocations accrued under the licence as well as water allocations acquired, used or transferred, or re-credited. The operation of the account is also governed by rules for the carrying over of

credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

domestic consumption means the consumption of water for normal household purposes in domestic premises situated on the land.

ecological community means an assemblage of species occupying a particular area.

endangered ecological communities means ecological communities listed in Schedule 1 of the [Threatened Species Conservation Act 1995](#) or Schedule 4 of the [Fisheries Management Act 1994](#).

extraction limit is a limit on the long-term average amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

Implementation Program is an Implementation Program established by the Minister under section 51 of the Act to implement this Plan.

individual daily extraction limit (IDEL) is the volume of water that may be extracted under individual access licence from an unregulated river on a daily basis.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the [Water Act 1912](#) in relation to the definition of a "river" gazetted 23 March 2001. See also **farm dam** and **runoff harvesting dam**.

Minister is the Minister for Land and Water Conservation. The Minister may delegate his functions under section 389 of the Act.

stock watering means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined the Order made under section 5 of the [Water Act 1912](#) in relation to the definition of a river gazetted 23 March 2001. See also **farm dam** and **in-river dam**.

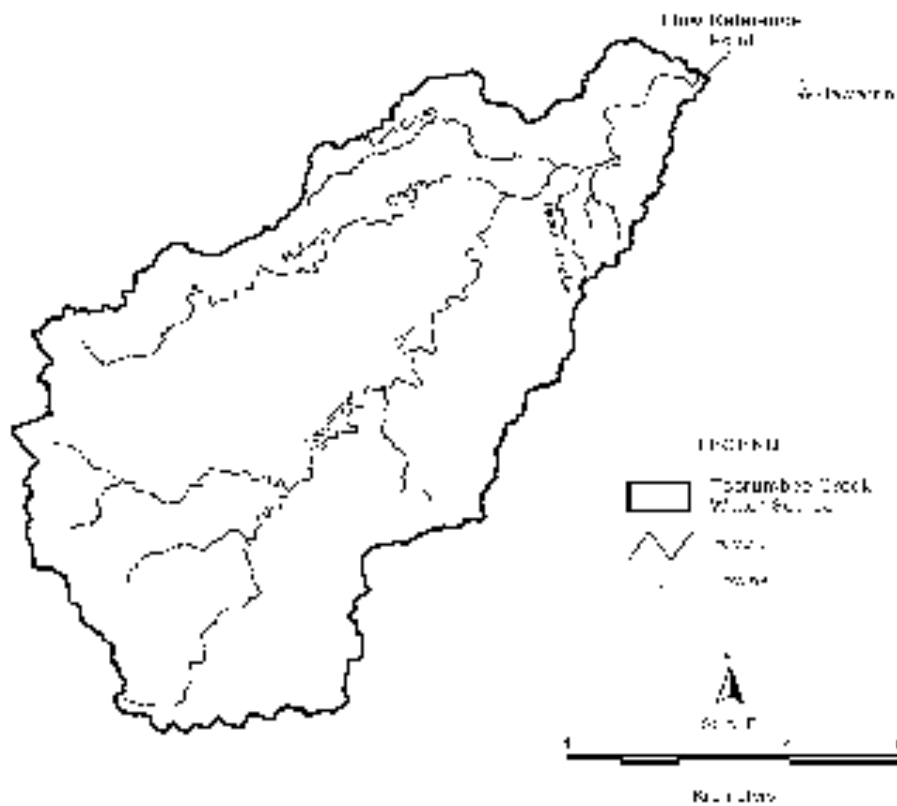
Note—

This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the total volume of water that may be extracted under all access licences from an unregulated river on a daily basis.

water accounting year is any twelve month period commencing on 1 July.

Schedule 2 Toorumbree Creek Water Source



Schedule 3 Rivers in the Toorumbree Creek Water Source

This water source includes:

- Home Creek
- McCoys Creek
- Parrabel Creek
- Peach Tree Creek
- Taits Creek
- Toorumbree Creek

Schedule 4 Contribution to targets in the State Water Management Outcomes Plan

Levels of assessed contribution:

- FULL—contributes to target in full
- HIGH—while not fully contributing to target is a good level of contribution

PARTIAL—goes some way to the target

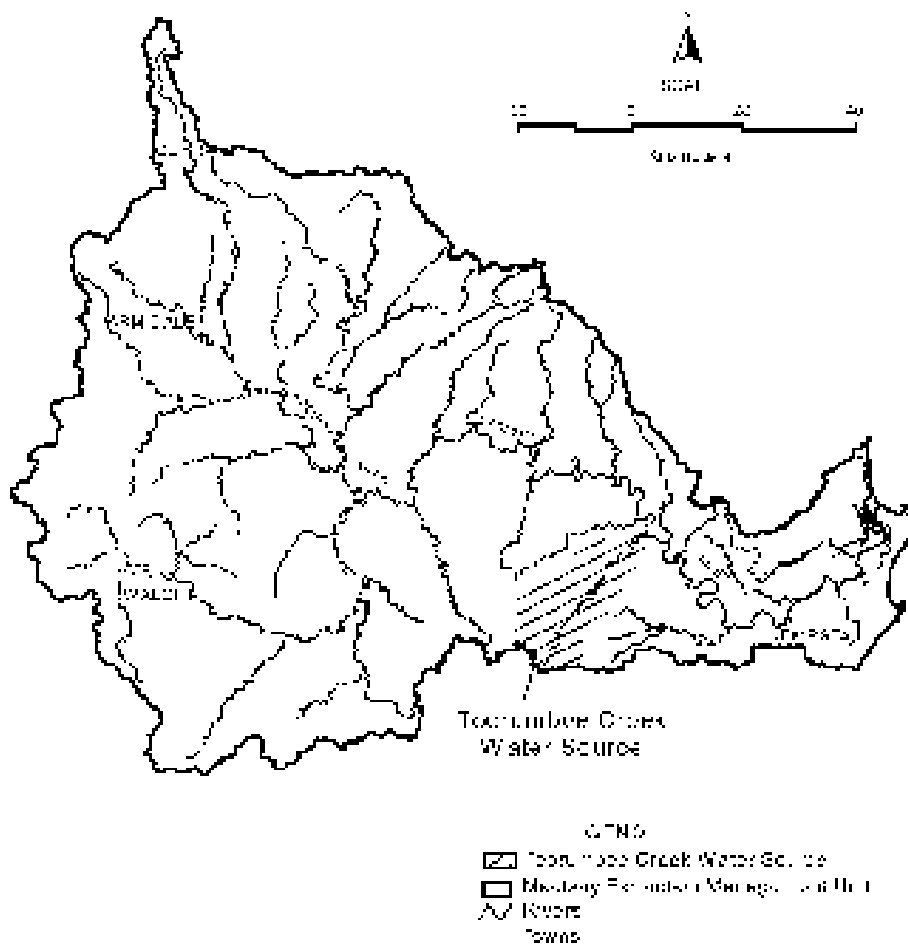
LOW—only small degree of contribution

Relevant Target	Level of Contribution	Comments
Target 1c Long term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	<ul style="list-style-type: none"> Part 9 Division 1 of this Plan clearly sets out the basis for the extraction limit for the Macleay River Extraction Management Unit Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impact However there are no access licence of share components in this Unit and application of IDELs should ensure adequate downstream flows
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Part 10 Division 2 of this Plan has put in place comprehensive daily extraction limits to protect/restore environmental flows This Plan has significantly improved low to very low flow protection This Plan is consistent with relevant Threatened Species Recovery Plans
Target 4a Wherever the frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency	FULL	<ul style="list-style-type: none"> Daily extraction limits protect 60% to 100% of flows

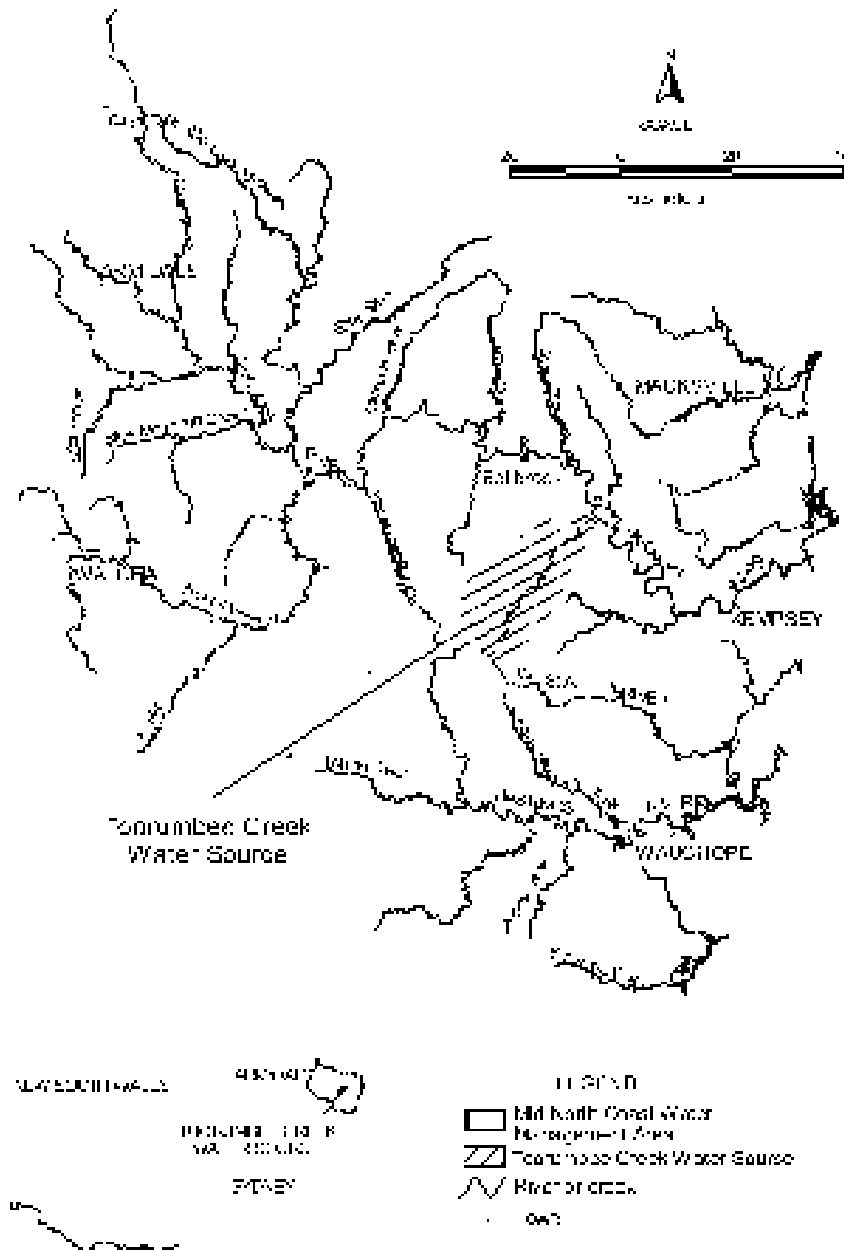
<p>Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile</p>	<p>FULL</p>	<ul style="list-style-type: none"> • Cease-to-pump levels protect flows below 80thtile in critical months
<p>Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	<p>FULL</p>	<ul style="list-style-type: none"> • This Plan establishes total daily extraction limits for distribution to individual licensees
<p>Target 6b A pathway for reducing the share components to 200% of the long-term average annual extraction limit to be established not later than the end of the term of the SWMOP</p>	<p>FULL</p>	<ul style="list-style-type: none"> • Total licensed share components for the Macleay River Extraction Management Unit should not exceed 200% of extraction limit for this Unit
<p>Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy</p>	<p>HIGH</p>	<ul style="list-style-type: none"> • The Government has established other mechanisms outside of this water sharing plan to address the target • This Plan proposes an exemption from the access licence embargo for Aboriginal cultural heritage
<p>Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50% of unregulated river access licences and for 80% of stressed unregulated rivers</p>	<p>FULL</p>	<ul style="list-style-type: none"> • To meet this target Statewide, the individual plans should as far as practicable, establish daily extraction limits across the whole water source, and this Plan does this
<p>Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use</p>	<p>FULL</p>	<ul style="list-style-type: none"> • Cease to pump level will protect flows for domestic and stock rights • IDELs explicitly provide for domestic and stock requirements
<p>Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed</p>	<p>HIGH</p>	<ul style="list-style-type: none"> • Aboriginal community representatives have been actively involved in development of this Plan and their advice has been incorporated into this Plan • The Plan includes provisions to refer licence and approval applications to the Local Aboriginal Land Council

<p>Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them</p>	<p>FULL</p>	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance • This Plan does provide reasonably high level of environmental protection that should assist in protecting Aboriginal values • The Plan includes provisions to refer licence and approval applications to the Local Aboriginal Land Council
<p>Target 16a All share components of access licences tradeable</p>	<p>FULL</p>	<ul style="list-style-type: none"> • Part 11 of this Plan provides for dealings of share components and daily extraction limits
<p>Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery</p>	<p>FULL</p>	<ul style="list-style-type: none"> • This Plan does not impose reduction factors
<p>Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment</p>	<p>FULL</p>	<ul style="list-style-type: none"> • Rules established in Part 10 Division 2 of this Plan
<p>Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit</p>	<p>NIL (Justifiable)</p>	<ul style="list-style-type: none"> • This Plan does not establish water transfer zones and since this water source is relatively small, this position is justified
<p>Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries</p>	<p>HIGH</p>	<ul style="list-style-type: none"> • This Plan includes a generalised water quality objective • This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality

Schedule 5 Macleay River Extraction Management Unit



Appendix 1 Mid North Coast Water Management Area



Appendix 2 Location of maps for public inspection

The maps in relation to this Plan may be inspected at:

District Office
 Department of Land and Water Conservation
 Elbow Street
 WEST KEMPSEY NSW 2440

Appendix 3 Performance indicators

Performance indicators for the Toorumbree Creek Water Sharing Plan

Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. <p>Note— Not every objective is relevant to every river in NSW.</p> <ul style="list-style-type: none"> Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.

<p>(c) Change in ecological condition of this water source and dependent ecosystems.</p>	<p>11 (a) 11 (b) 11 (c) 11 (d) 11 (f) 11 (h)</p>	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non-water sharing plan related factors (such as climate and catchment landuse changes).
<p>(e) Extent to which basic landholder rights requirements have been met.</p>	<p>11 (e)</p>	<p>Assessment of cease to pump levels in relation to basic rights requirements.</p>	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
<p>(f) Change in economic benefits derived from water extraction and use.</p>	<p>11 (c) 11 (e)</p>	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred. 	<ul style="list-style-type: none"> • Note that there are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
<p>(g) Extent to which native title rights requirements have been met.</p>	<p>11 (h)</p>	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.

- | | | | |
|--|--------------------------------------|--|--|
| (h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people. | 11 (b)
11 (d)
11 (f)
11 (h) | <ul style="list-style-type: none">• Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.• Change in consultation on Aboriginal values in water licensing decisions, as measured by the number of licence applications referred to the Bellbrook Local Aboriginal Land Council. | <ul style="list-style-type: none">• The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.• Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values. |
| (i) Contribution to the achievement of water quality to support the environmental values of this water source. | 11 (f) | <ul style="list-style-type: none">• Change in the baseline figures of identified water quality variables. | <ul style="list-style-type: none">• Note that many factors may affect water quality that are not related directly to flow management. |

Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1 Name of Order

This Order is the [Access Licence Dealing Principles Order 2002](#).

2 Commencement

This Order commences on 20 December 2002.

3 Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4 Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.

(2) Notes in this order do not form part of the order.

5 Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6 Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the [Water Management Act 2000](#).

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the [Water Management Act 2000](#).

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the [Water Management Act 2000](#).

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7 Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, ***commitments to take water*** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8 Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9 Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take

water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10 Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11 Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note—

as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12 Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or

- (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has

components relating to only one water source, and

- (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff

harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.

- (14) For conversion of category from runoff harvesting to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note—

Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13 Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.

- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note—

As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14 Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
- (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note—

as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15 Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
- (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or

(c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.

- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note—

As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16 Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
- (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note—

As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17 Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:

- (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note—

As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18 Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or

unregulated river water source.

- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19 Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.

- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20 Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.

- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21 Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:

- (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.