

# Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003

[2003-179]



New South Wales

## Status Information

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# Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003



New South Wales

## Contents

<b>Part 1 Introduction</b> .....	6
1 Name of plan .....	6
2 Nature and status of this Plan .....	6
3 Date of commencement .....	6
4 Water sources and waters to which this Plan applies .....	6
5 Interpretation .....	7
6 Effect on licences, authorities and permits under the Water Act 1912 .....	7
7 State Water Management Outcomes Plan .....	8
<b>Part 2 Vision, objectives, strategies and performance indicators</b> .....	8
8 Vision, objectives, strategies and performance indicators.....	8
9 Vision.....	8
10 Objectives.....	8
11 Strategies .....	9
12 Performance indicators.....	9
<b>Part 3 Environmental water provisions</b> .....	10
13 Environmental water provisions .....	10
14 Environmental health water .....	10
15 Supplementary environmental water .....	10
16 Adaptive environmental water .....	10

<b>Part 4 Basic landholder rights</b> .....	11
17 Basic landholder rights .....	11
18 Domestic and stock rights .....	11
19 Native title rights .....	12
<b>Part 5 Bulk access regime</b> .....	12
20 Bulk access regime .....	12
<b>Part 6 Requirements for water under access licences</b> .....	13
21 Requirements for water under access licences .....	13
22 Share component of domestic and stock access licences .....	13
23 Share component of local water utility licences .....	13
24 Share component of regulated river (high security) access licences .....	14
25 Share component of regulated river (general security) access licences .....	14
26 Share component of supplementary water access licences .....	14
27 Changes to total share component .....	14
<b>Part 7 Rules for granting access licences</b> .....	14
28 Rules for granting access licences .....	14
<b>Part 8 Limits to the availability of water</b> .....	15
<b>Division 1 Long-term extraction limit</b> .....	15
29 Limits to the availability of water .....	15
30 Volume of the long-term extraction limit .....	15
31 Assessment of the long-term extraction limit, the current long-term average annual extraction from these water sources and growth in water use by Tamworth City Council .....	16
32 Maintaining compliance with the long-term extraction limit .....	17
33 Limit to the volumes that may be taken under or assigned from regulated river (general security) access licences in the Lower Namoi Water Source .....	19
<b>Division 2 Available water determinations</b> .....	19
34 Available water determinations .....	19
35 Available water determinations for domestic and stock access licences .....	19

36 Available water determinations for local water utility access licences .....	20
37 Available water determinations for regulated river (high security) access licences .....	20
38 Available water determinations for regulated river (general security) access licences .....	21
39 Available water determinations for supplementary water access licences .....	24
<b>Part 9 Rules for managing access licences .....</b>	<b>24</b>
<b>Division 1 General .....</b>	<b>24</b>
40 Rules for managing access licences .....	24
<b>Division 2 Water allocation account management .....</b>	<b>24</b>
41 Water allocation accounts .....	24
42 Accrual of water allocations .....	24
43 Volume taken under access licences .....	25
44 Accounting of assigned water allocations and return flows .....	25
45 Carrying over of water allocation credits, water allocation account limits and debits for excess losses .....	26
<b>Division 3 Extraction conditions .....</b>	<b>27</b>
46 General priority of extractions .....	27
47 Numerical specification of extraction components .....	27
48 Extraction of water in the Upper Namoi Regulated River Water Source under clause 38 (8) provisions .....	28
49 Taking of water under supplementary water licences in the Lower Namoi Regulated River Water Source .....	29
<b>Part 10 Access licence dealing rules .....</b>	<b>35</b>
50 Access licence dealing rules .....	35
51 Rules relating to constraints within this water source .....	35
52 Rules for change of water source .....	36
53 Rules for conversion of access licence category .....	37
54 Rules for interstate access licence transfer .....	38
55 Rules for water allocation assignment between water sources .....	38
56 Rules for interstate assignment of water allocations .....	39
<b>Part 11 Mandatory conditions .....</b>	<b>39</b>

57 Mandatory conditions on access licences .....	39
58 Mandatory conditions on water supply works approvals .....	41
<b>Part 12 System operation rules .....</b>	<b>41</b>
59 System operation rules .....	41
60 Replenishment flows .....	41
61 Water delivery and channel capacity constraints .....	41
62 Rates of change to releases from water storages .....	42
63 Bulk transfer rules between storages .....	42
64 Supply of orders when remaining allocations are low .....	43
65 Dam operation during floods and spills .....	43
<b>Part 13 Monitoring and reporting .....</b>	<b>43</b>
66 Monitoring .....	43
<b>Part 14 Amendment of this Plan .....</b>	<b>44</b>
67 Changes to these water source .....	44
68 Other amendments of this Plan .....	44
<b>Dictionary .....</b>	<b>44</b>
<b>Schedule 2 Contribution to relevant targets in December 2002 SWMOP</b> .....	<b>46</b>
<b>Appendix 1 Rivers and lakes in these water sources .....</b>	<b>49</b>
<b>Appendix 2 Namoi Water Management Area .....</b>	<b>51</b>
<b>Appendix 3 State floodplain harvesting principles .....</b>	<b>51</b>
<b>Appendix 4 Performance indicators .....</b>	<b>54</b>
<b>Appendix 5 Minister’s access licence dealing principles .....</b>	<b>57</b>

# Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003



New South Wales

## Part 1 Introduction

### 1 Name of plan

This Plan is the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 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 Water sources and waters to which this Plan applies

- (1) The water sources in respect of which this Plan is made shall be known as the Upper Namoi Regulated River Water Source and the Lower Namoi Regulated River Water Source (hereafter **these water sources**).
- (2) The Upper Namoi Regulated River Water Source is that between the banks of all rivers, from the upper limits of Split Rock Dam water storage downstream to the upper limits of Keepit Dam water storage, which at the date of commencement of this Plan, have been declared by the Minister to be regulated rivers.
- (3) The Lower Namoi Regulated River Water Source is that between the banks of all rivers, from the upper limits of Keepit Dam water storage downstream to the junction of the Namoi River with the Barwon River, which at the date of commencement of this Plan, have been declared by the Minister to be regulated rivers.

**Note—**

A regulated river is a river that has been declared by the Minister, by order published in the New South Wales Government Gazette, to be a regulated river.

**Note—**

The regulated rivers referred to in subclauses (2) and (3) are listed in Appendix 1.

- (4) The rivers included in these water sources may be varied under section 42 (2) of the Act, as set out in Part 14 of this Plan.
- (5) These water sources are within the Namoi Water Management Area as constituted by the Ministerial order published in the NSW Government Gazette (hereafter **the Gazette**) on 23 November 2001.

**Note—**

The Namoi Water Management Area is shown on the map in Appendix 2.

- (6) This Plan applies to all waters contained within these water sources but does not apply to water contained within aquifer water sources underlying these water sources or to waters on land adjacent to these water sources.

**Note—**

Management of floodplain harvesting is not a component of this water sharing plan. Management of floodplain harvesting will occur according to a number of state-wide management principles, attached in Appendix 3.

## 5 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan, unless redefined in Schedule 1, and the effect of these terms may be explained in Notes.
- (2) Additional terms are defined in Schedule 1.
- (3) Notes in 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 Effect on licences, authorities and permits under the [Water Act 1912](#)

- (1) This Plan applies from the date of commencement to those matters that are being 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 shall apply to matters administered under the [Water Act](#)

1912 in the interim.

## **7 State Water Management Outcomes Plan**

- (1) In accordance with section 16 (1) (a) of the Act this Plan is consistent with the State Water Management Outcomes Plan published in the Gazette on 20 December 2002 (hereafter **the SWMOP**).
- (2) Schedule 2 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to these targets.

## **Part 2 Vision, objectives, strategies and performance indicators**

### **8 Vision, objectives, strategies and performance indicators**

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

### **9 Vision**

The vision for this Plan is to have a sustainable, healthy river system that provides equitable water access for all uses and users through flow management.

### **10 Objectives**

The objectives of this Plan are to:

- (a) protect, preserve, maintain or enhance the important river flow dependent environmental features and Aboriginal, cultural and heritage values of these water sources,

#### **Note—**

Although there are no specific strategies directly related to Aboriginal, cultural and heritage values the limits placed on the taking of water under supplementary water access licences and the long-term extraction limit provisions may provide some protection or enhancement.

- (b) manage these water sources to ensure equitable sharing between all users,
- (c) protect basic landholder rights of owners of land,
- (d) provide opportunities for market based trading of regulated water entitlement within sustainability and system constraints,
- (e) provide sufficient flexibility in water account management to encourage responsible use of available water, and
- (f) contribute to the maintenance of water quality.

#### **Note—**

Although there are no specific strategies directly related to the maintenance of water quality in this Plan, the supplementary water access provisions should contribute to maintenance of water quality in these water



sources. It should be recognised that water quality objectives will essentially be addressed through other planning processes.

## **11 Strategies**

The strategies for this Plan are to:

- (a) establish environmental water provisions (Part 3 of this Plan),
- (b) identify water requirements for basic landholder rights (Part 4 of this Plan),
- (c) identify water requirements for access licences (Part 6 of this Plan),
- (d) establish rules for granting of access licences (Part 7 of this Plan),
- (e) establish provisions that place limits on the availability of water (Part 8 of this Plan),
- (f) establish rules for making available water determinations (Part 8 of this Plan),
- (g) establish rules for the operation of water accounts (Part 9 of this Plan),
- (h) establish provisions specifying circumstances under which water may be extracted (Part 9 of this Plan), and
- (i) establish access licence dealing rules (Part 10 of this Plan).

## **12 Performance indicators**

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

- (a) change in the ecological condition of these water sources and dependent ecosystems,
- (b) change in low flow regime,
- (c) change in moderate to high flow regime,
- (d) change in water quality in these water sources,
- (e) extent to which domestic and stock rights requirements have been met,
- (f) extent to which local water utility requirements have been met,
- (g) change in economic benefits derived from water extraction and use,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) extent to which native title rights have been met.

**Note—**

Appendix 4 details the objectives to which these performance indicators relate and the methods for assessing indicators.

## **Part 3 Environmental water provisions**

### **13 Environmental water provisions**

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

### **14 Environmental health water**

This Plan establishes the following environmental health water rules:

- (a) water volume in excess of the long-term extraction limit established in clause 30 of this Plan may not be taken from these water sources and used for any purpose, and
- (b) water availability is to be managed as specified in clause 32 of this Plan to ensure water volume in excess of the long-term extraction limit is not being taken.

**Note—**

By limiting long-term average extractions to an estimated 238,000 megalitres per year this Plan ensures that approximately 73% of the long-term average annual flow in these water sources (estimated to be 870,000 megalitres per year) will be preserved and will contribute to the maintenance of basic ecosystem health.

### **15 Supplementary environmental water**

- (1) This Plan establishes the rule in subclause (2) as a supplementary environmental water rule.
- (2) In the months of June, July and August, a minimum daily flow which is equivalent to 75% of the natural 95<sup>th</sup> percentile daily flow for each month, shall be maintained in the Namoi River at Walgett (streamflow gauging station number 419091).

**Note—**

Clause 49 of this Plan specifies limits to total extractions by all Lower Namoi supplementary water access licence holders during periods when flows are above specified threshold flow levels. These rules contribute to a number of interim river flow objectives:

- protecting important rises in water levels,
- maintaining wetland and floodplain inundation and,
- maintaining natural flow variability.

### **16 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 shall be 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 4 Basic landholder rights**

### **17 Basic landholder rights**

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

### **18 Domestic and stock rights**

**Note—**

Water from these water sources should not be consumed without prior treatment which is adequate to ensure its safety.

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights in the Upper Namoi Regulated River Water Source are estimated to be 160 megalitres per year (hereafter **ML/year**).
- (2) At the commencement of this Plan the water requirements of holders of domestic and stock basic rights in the Lower Namoi Regulated River Water Source are estimated to be 1,776 ML/year.
- (3) 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 these water sources or by an increase in the exercise of domestic and stock rights on landholdings.

- (4) The water supply system shall be managed so that it would be capable of maintaining supply to those exercising domestic and stock rights through a repeat of the worst period of low inflows into these water sources, as represented in flow information held by the Department.
- (5) To achieve subclause (4), sufficient volumes of water must be set aside from assured inflows into these water sources and in reserves held in Split Rock Dam water storage, Keepit Dam water storage and other water storages.

**Note—**

The Minister may issue an order under section 328 of the Act to restrict the exercise of domestic and stock basic rights from these water sources to protect the environment, for reasons of public health, or to preserve basic landholder rights.

## 19 Native title rights

### Note—

Water from these water sources should not be consumed without prior treatment which is adequate to ensure its safety.

- (1) At the commencement of this Plan there are no holders of native title rights in the Upper Namoi Regulated River Water Source and therefore native title rights are 0 ML/year.
- (2) At the commencement of this Plan there are no holders of native title rights in Lower Namoi Regulated River Water Source and therefore native title rights are 0 ML/year.
- (3) This Plan recognises that native title rights may increase during the term of this Plan.

### Note—

Increase in native title rights may occur as a result of the granting of native title rights under the Commonwealth *Native Titles Act 1993*.

- (4) The water supply system shall be managed so that it would be capable of maintaining supply to those exercising native title rights through a repeat of the worst period of low inflows to these water sources represented in flow information held by the Department.
- (5) To achieve subclause (4) sufficient volumes of water must be set aside from assured inflows into these water sources and in reserves held in Split Rock Dam water storage, Keepit Dam water storage or other water storages.

## Part 5 Bulk access regime

### 20 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these water sources having regard to:
  - (a) the environmental water provisions established under Part 3 of this Plan,
  - (b) the requirements for basic landholder rights identified under Part 4 of this Plan, and
  - (c) the requirements for water for extraction under access licences identified under Part 6 of this Plan.
- (3) The bulk access regime established under subclause (2):

- (a) establishes rules according to which access licences are granted as provided for in Part 7 of this Plan,
- (b) recognises and is consistent with the limits to the availability of water as provided for in Part 8 of this Plan,
- (c) establishes rules according to which available water determinations are to be made as provided for in Part 8 of this Plan,
- (d) recognises the effect of climatic variability on the availability of water as provided for in Part 8 of this Plan,
- (e) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction of the availability of water as provided for in Part 8 of this Plan, and
- (f) establishes rules according to which access licences are managed as provided for in Part 9 of this Plan.

## **Part 6 Requirements for water under access licences**

### **21 Requirements for water under access licences**

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

**Note—**

The following clauses in this Part represent the total volumes specified in the share components of access licences in these water sources. There is no commitment to make these volumes available. The actual volumes available at any time will depend on climate, access licence priority and the rules in this Plan.

### **22 Share component of domestic and stock access licences**

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of domestic and stock licences authorised to extract water from the Upper Namoi Regulated River Water Source will total 46 megalitres.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of domestic and stock licences authorised to extract water from the Lower Namoi Regulated River Water Source will total 1,967 megalitres.

### **23 Share component of local water utility licences**

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of local water utility licences authorised to extract water from the Upper Namoi Regulated River Water Source will total 150 megalitres.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of local water utility licences authorised to extract water from the Lower Namoi Regulated River Water Source will total 2,271 megalitres.

## **24 Share component of regulated river (high security) access licences**

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of regulated river (high security) access licences authorised to extract water from the Upper Namoi Regulated River Water Source will total 80 megalitres.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the volume of regulated river (high security) access licences authorised to extract water from the Lower Namoi Regulated River Water Source will total 3,418 megalitres.

## **25 Share component of regulated river (general security) access licences**

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of regulated river (general security) access licences authorised to extract water from the Upper Namoi Regulated River Water Source will total 9,729 megalitres.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the volume of regulated river (general security) access licences authorised to extract water from the Lower Namoi Regulated River Water Source will total 246,692 megalitres.

## **26 Share component of supplementary water access licences**

- (1) There shall be no supplementary water access licences authorised to extract water from the Upper Namoi Regulated River Water Source.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of supplementary water access licences authorised to extract water from the Lower Namoi Regulated River Water Source will total 110,000 megalitres.

## **27 Changes to total share component**

This Plan recognises that total requirements for extraction under access licences in each access licence category may change during the term of this Plan as a result of:

- (a) the granting, surrender, cancellation or non renewal of access licences, or
- (b) variations to local water utility access licences arising from section 66 of the Act.

## **Part 7 Rules for granting access licences**

### **28 Rules for granting access licences**

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act.
- (2) Access licences may be granted in these water sources 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 these water sources, other than for access licences of the following kinds:
- (a) local water utility access licences,

**Note—**

Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.

- (b) domestic and stock (domestic only) access licences, or
- (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new licence, the applicant must establish the purpose and circumstances relating to that access licence, and that the share component sought will be the minimum required to meet that purpose and circumstances.
- (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.

## **Part 8 Limits to the availability of water**

### **Division 1 Long-term extraction limit**

#### **29 Limits to the availability of water**

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

#### **30 Volume of the long-term extraction limit**

- (1) This Plan establishes a long-term extraction limit for these water sources being the lesser of:
- (a) the long-term average annual extraction from these water sources that would occur with the water storages and water use development that existed in 1999/2000, the share components existing at the commencement of this Plan and application of the water management rules defined in this Plan, or
- (b) the long-term average annual extraction from these water sources that would occur under Cap baseline conditions.

**Note—**

An assessment of the long-term average annual extractions that would occur under the conditions specified in subclause (1) (a) has been made using the Namoi IQQM run number 9078. This indicates a long-term

average annual extraction volume of 238,000 megalitres.

**Note—**

An assessment of the long-term average annual extractions that would result from the Cap baseline conditions in subclause (1) (b) has been made using the Namoi IQQM run number namo3414. This indicates a long-term average annual extraction volume of 256,000 megalitres.

**Note—**

The long-term extraction limit recognises the effect of climatic variability on the availability of water, in accordance with section 20 (2) (c) of the Act, as historic climate and river flow information is used in its determination.

- (2) The values referred to in subclauses (1) (a) and (1) (b) shall be adjusted for any access licence dealing under section 71E of the Act.
- (3) For the purposes of establishing the long-term extraction limit and auditing compliance with it, the following shall be included:
  - (a) all water extractions by holders of all categories of access licences in accordance with the rules used for accounting of Cap diversions for Schedule F of the Murray Darling Basin Agreement,
  - (b) domestic and stock rights and native title rights extractions,
  - (c) volumes of water delivered as adaptive environmental water,
  - (d) floodplain harvesting extractions determined to be taken for use in conjunction with extractions from these water sources, and
  - (e) water allocations assigned from access licence water allocation accounts in these water sources to access licence water allocation accounts in any other water source.
- (4) For the purposes of establishing the long-term extraction limit and auditing compliance with it,
  - (a) the following shall not be included:
    - (i) replenishment flows made in accordance with this Plan, or
    - (ii) diversion of water pursuant to the environmental health water rules and the supplementary environmental water rules in Part 3 of this Plan, and
  - (b) the assessed volume of extractions shall be reduced by the volume of water allocations being assigned from the water allocation accounts of access licences in any other water source to the water allocation accounts of access licences in these water sources.

**31 Assessment of the long-term extraction limit, the current long-term average annual**



**extraction from these water sources and growth in water use by Tamworth City Council**

- (1) Assessment of the long-term extraction limit and the current long-term average annual extraction from these water sources shall be carried out after the end of each water year, using the hydrologic computer model that, at the time, is approved by the Department for assessing long-term water extraction from these water sources.
- (2) To assess the long-term extraction limit, the model referred to in subclause (1) shall be set to represent as closely as possible the conditions referred to in clauses 30 (1) (a) and 30 (1) (b).
- (3) To assess the current long-term average annual extraction from these water sources, the model referred to in subclause (1) shall be set to represent as closely as possible all water use development, supply system management and other factors affecting the quantity of long-term average annual extraction from these water sources at the time of assessment.
- (4) An assessment shall also be carried out each year to determine the growth in extraction by Tamworth City Council.
- (5) Growth in extraction by Tamworth City Council for the purposes of this clause and clause 32 shall be the greater of:
  - (a) the current long-term average annual extraction from all surface water sources in the Namoi Water Management Area under the local water utility access licences or [Water Act 1912](#) licences held by Tamworth City Council minus the long-term average annual extraction by Tamworth City Council, under Cap baseline conditions, and
  - (b) zero.
- (6) Assessments under subclause (4) shall be carried out in accordance with procedures established by the Minister, but should be based on the results from a hydrologic computer model where this is possible.

**32 Maintaining compliance with the long-term extraction limit**

- (1) The current long-term average annual extraction from these water sources plus 95% of the growth in extraction by Tamworth City Council, determined in accordance with clause 31, may not be permitted to exceed the long-term extraction limit specified in clause 30.
- (2) Pursuant to subclause (1),
  - (a) if it has been assessed that the current long-term average annual extraction from these water sources plus 95% of growth in extraction by Tamworth City Council:
    - (i) exceeds the volume specified in clause 30 (1) (a) by 3% or more, or

- (ii) exceeds the volume specified in clause 30 (1) (a) by more than half the difference between the volume specified in clause 30 (1) (a) and the volume specified in clause 30 (1) (b), or
    - (iii) exceeds the volume specified in clause 30 (1) (b), or
  - (b) if the assessments for 3 consecutive water years indicate that the current long-term average annual extraction from these water sources plus 95% of growth in extraction by Tamworth City Council exceeds the long-term extraction limit,
  - (c) then, the maximum available water determination made for supplementary water access licences under clause 39 shall be reduced, and
  - (d) once the maximum available water determination for supplementary water access licences has reduced to zero, the maximum sum of available water determinations to regulated river (general security) access licences in the Upper Namoi Regulated River Water Source under clause 38 (7) and the maximum volumes that may be taken or assigned from a regulated river (general security) access licences in the Lower Namoi Regulated River Water Source under clause 33 shall be reduced.
- (3) The degree of reduction under subclause (2) shall be that necessary to return long-term average annual extractions plus 95% of growth in extraction by Tamworth City Council to the long-term extraction limit.
- (4) Reductions in the percentages specified in clauses 33 (a), 33 (b) and 38 (7), pursuant to subclause (2), are to be of the same proportion.

**Note—**

Subclause (4) means that if the percentage specified in clause 33 (a) is reduced from say 125% to 100% (ie by one fifth), then the percentage specified in clause 33 (b) is to be reduced from 300% to 240% (ie one fifth) and the percentage specified in clause 37 (5) is to be reduced from 100% to 80% (ie one fifth).

- (5) If action has been taken under subclause (2), and a subsequent assessment under clause 31 indicates that the sum of the current long-term average annual extractions and 95% of any growth in extraction by Tamworth City Council is below the long-term extraction limit by more than 3%, then previous reductions under subclause (2) may be reversed to the degree that it is assessed necessary to return the sum to the long-term extraction limit.
- (6) Any reversal of previous reductions under subclause (5) shall:
- (a) not exceed previous reductions made under subclause (2), and
  - (b) shall first reverse any previous reductions relating to regulated river (general security) access licences.
- (7) The assessment of the degree of any reduction required under subclause (2) or degree of any reversal under subclause (5) shall be made using the same computer

model used to carry out assessments under clause 31.

### **33 Limit to the volumes that may be taken under or assigned from regulated river (general security) access licences in the Lower Namoi Water Source**

The maximum volume that may be taken under, or assigned from, a regulated river (general security) access licence in the Lower Namoi Water Source:

- (a) during any water year shall be 125% of the share component of the access licence, or such lower percentage that may result from clause 32, plus the volume of water allocations assigned to the access licence from another access licence during that water year, and
- (b) during any 3 consecutive water years shall be 300% of the share component of the access licence, or such lower percentage that may result from clause 32, plus the volume of water allocations assigned to the access licence from another access licence during the 3 water years.

## **Division 2 Available water determinations**

### **34 Available water determinations**

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) All available water determinations in these water sources shall be expressed as a percentage of the share component of each access licence in a licence category.

### **35 Available water determinations for domestic and stock access licences**

- (1) The water supply system shall be managed so that available water determinations for domestic and stock access licences of 100% of share components can be maintained in each water source through a repeat of the worst period of low inflows into these water sources, as represented in flow information held by the Department.
- (2) Sufficient volumes of water must be set aside from assured inflows into these water sources and reserves held in Split Rock Dam and Keepit Dam water storages to provide for subclause (1).
- (3) The available water determinations for domestic and stock access licences in each water source made for the commencement of each water year shall be 100% of share components, whenever possible.
- (4) The sum of available water determinations made for domestic and stock access licences in each water source in any water year shall not exceed 100% of share components.
- (5) This Plan recognises that the water requirement of domestic and stock access licences in each water source may increase during the term of this Plan in accordance with

clause 28.

- (6) The volumes of water set aside from assured inflows into these water sources and in reserves held in Split Rock Dam and Keepit Dam water storages shall be adjusted as required over the course of this Plan if necessary to do so to ensure that subclause (1) is satisfied.

### **36 Available water determinations for local water utility access licences**

- (1) The water supply system shall be managed so that available water determinations for local water utility access licences of 100% of share components can be maintained in each water source through a repeat of the worst period of low inflows into these water sources, as represented in flow information held by the Department.
- (2) Sufficient volumes of water must be set aside from assured inflows into these water sources and reserves held in Split Rock Dam and Keepit Dam water storages to provide for subclause (1).
- (3) The available water determinations for local water utility access licenses in each water source made for the commencement of each water year shall be 100% of share components whenever possible.
- (4) The sum of water determinations made for local water utility access licences in each water source in any water year shall not exceed 100% of share components.
- (5) This Plan recognises that the water requirement of local water utility access licences in each water source may increase during the term of this Plan in accordance with clause 28 and Part 2 Division 3 section 66 of the Act.
- (6) The volumes of water set aside from assured inflows into these water sources and in reserves held in Split Rock Dam and Keepit Dam water storages shall be adjusted as required over the course of this Plan if necessary to do so, to ensure subclause (1) is satisfied.

### **37 Available water determinations for regulated river (high security) access licences**

- (1) The water supply system shall be managed so that available water determinations for regulated river (high security) access licences of 100% of share components can be maintained in each water source through a repeat of the worst period of low inflows into these water sources, as represented in flow information held by the Department.
- (2) Sufficient volumes of water must be set aside from assured inflows into these water sources and reserves held in Split Rock Dam and Keepit Dam water storages to provide for subclause (1).
- (3) The available water determinations for regulated river (high security) access licences in each water source made for the commencement of each water year shall provide

an allocation of 100% of share components whenever possible.

- (4) If an available water determination made under subclause (3) is less than 100% of share components, then further assessments of available water shall be carried out and available water determinations made until the sum of allocations for the water year is equivalent to 100% of share components.
- (5) The sum of available water determinations for regulated river (high security) access licences in each water source in any water year shall not exceed 100% of share components.
- (6) Available water determinations made for regulated river (high security) access licences must take into account:
  - (a) the environmental water provisions established by this Plan,
  - (b) requirements for domestic and stock rights,
  - (c) requirements for native title rights,
  - (d) requirements for domestic and stock access licences,
  - (e) requirements for local water utility access licences,
  - (f) allocations remaining in access licence water allocation accounts from previous available water determinations,
  - (g) water losses associated with the holding and delivery of water to meet the requirements specified in subclauses (a) to (f),
  - (h) an appropriate volume to meet water losses associated with the holding and delivery of water resulting from the available water determination, and
  - (i) any other relevant matters.

### **38 Available water determinations for regulated river (general security) access licences**

- (1) An available water determination is not to be made for regulated river (general security) access licences in either water source in any water year until the sum of available water determinations for regulated river (high security) access licences in both water sources for the water year is equivalent to 100% of share components.
- (2) Providing subclause (1) has been satisfied, an available water determination shall be made for the commencement of each water year and, as required during the course of each water year to, ensure that the sum of available water determinations to regulated river (general security) access licences in the Upper Namoi Regulated River Water source during the water year are equal to:
  - (a) 0% of share components, if the volume of water held in Split Rock Dam water

storage has not been 5% or more of its full supply volume at any time during the water year, or

- (b) 50% of share components, if the volume of water held in Split Rock Dam water storage has been 5% or more of its full supply volume at any time during the water year but not 8% or more of its full supply volume, or
- (c) 60% of share components, if the volume of water held in Split Rock Dam water storage has been 8% or more of its full supply volume at any time during the water year but not 10% or more of its full supply volume, or
- (d) the maximum percentage permissible under subclause (7) if the volume of water held in Split Rock Dam water storage has been 10% or more of its full supply volume at any time during the water year.

(3) The Minister may, under section 42 (2) of the Act, vary the storage volumes specified in subclause (2) if:

- (a) an increase in the requirements for water under regulated river (high security) access licences or other higher priority access licences in these water sources, or
- (b) an increase in the requirements for water for extraction under regulated river (general security) access licences in the Upper Namoi Regulated River Water Source,

reduces the long-term reliability of water allocations that can be made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source below that existing at the commencement of this Plan.

- (4) Variations under subclause (3) shall be to the extent necessary to reinstate the long-term reliability of water allocations to regulated river (general security) access licences in the Upper Namoi Regulated River Water Source to that existing at the commencement of this Plan.
- (5) The Minister may, under section 42 (2) of the Act, vary the storage capacity volumes specified in subclause (2) if the issue of new regulated river (general security) access licences in the Upper Namoi Regulated River Water Source mean that the allocations provided by the available water determinations required under subclause (2) could not be supplied at the storage capacity volumes specified in the subclause.
- (6) Variations under subclause (5) shall be to the extent necessary to permit the supply of the allocations provided by the required available water determinations.
- (7) The sum of available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source shall not exceed 100% of share components, or such lower percentage as results from clause 32.

- (8) Whenever the sum of available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source is equivalent to or less than 60% of share components then:
- (a) uncontrolled flows may be extracted without debit to regulated river (general security) access licence accounts, subject to the rules specified in subclauses (b) and (c), and to authorisation by the Minister and the terms of that authorisation,
  - (b) the total amount of water that may be extracted without debit to the access licence water allocation account in any water year is limited to the lesser of:
    - (i) the difference between the sum of allocations to the regulated river (general security) access licence and the share component of the access licence, or
    - (ii) 50% of the share component of the access licence,
  - (c) if the total amount of water extracted exceeds the limits specified in subclause (b) then the regulated river (general security) access licence account shall be debited by a volume equivalent to the exceedance, and
  - (d) available water determinations shall refer to the provisions specified in subclauses (a), (b) and (c).
- (9) Providing subclause (1) has been satisfied, assessments of available water shall be made at least monthly, and available water determinations made for regulated (general security) access licences in the Lower Namoi Regulated River Water Source, if additional water can be provided to them.
- (10) Available water determinations under subclause (9) shall be based on the volume of water available after making provision for:
- (a) the environmental water provisions established by this Plan,
  - (b) requirements for domestic and stock rights,
  - (c) requirements for native title rights,
  - (d) requirements for domestic and stock access licences,
  - (e) requirements for local water utility access licences,
  - (f) requirements for regulated river (high security) access licences,
  - (g) allocations remaining in access licence water allocation accounts from previous available water determinations,
  - (h) water losses associated with holding and delivery of water to meet the requirements identified in sub-clauses (a) to (g),

(i) an appropriate volume to meet water losses associated with the holding and delivery of water resulting from the available water determination, and

(j) any other relevant matters.

(11) Available water determinations under subclause (9) shall take into account any water in Split Rock Dam water storage exceeding that needed to provided for available water determinations in the Upper Namoi Regulated River Water Source in any water year when an available water determination in excess of 0% has been made for regulated river (general security) access licences in that water source.

### **39 Available water determinations for supplementary water access licences**

(1) An available water determination shall be made at the commencement of each water year and shall define the percentage of supplementary water access licence share component that can be taken in that year in the Lower Namoi Regulated River Water Source.

(2) The available water determination made under subclause (1) shall not exceed 100% of share components, or such lower percentage that may result from clause 32 (2).

## **Part 9 Rules for managing access licences**

### **Division 1 General**

#### **40 Rules for managing access licences**

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

(a) the environmental water rules established in Part 3 of this Plan,

(b) requirements for water to satisfy basic landholder rights identified in Part 4 of this Plan, and

(c) requirements for water for extraction under access licences in Part 6 of this Plan.

### **Division 2 Water allocation account management**

#### **41 Water allocation accounts**

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

#### **42 Accrual of water allocations**

Water allocation shall be accrued into each access licence water allocation account in accordance with the available water determinations made for the category of the access licence in the relevant water source.



### **43 Volume taken under access licences**

- (1) The water allocation taken under access licences in the Upper Namoi Regulated River Water Source shall be assessed as:
  - (a) the volume of water taken by the approved water supply works nominated by the access licence, or
  - (b) the greater of:
    - (i) the volume of water extracted by the approved water supply works nominated by the access licence, or
    - (ii) the volume of water ordered for extraction by the approved water supply works nominated by the access licence,where the Minister has applied such a discretionary condition to the access licence.
- (2) The Minister should only apply a discretionary condition in relation to subclause (b) where this has been provided for in a compliance management strategy approved by the Minister.

**Note—**

It is intended that the discretionary condition referred to above should only be applied where water orders have been exceeding the volume of water being taken under a licence and this cannot be explained by rainfall or other unavoidable factors.

- (3) Extraction of water in accordance with provisions of clause 38 (8) (a) and 38 (8) (b) shall not be debited from the access licence water allocation account.
- (4) The water allocation taken under local water utility access licences, domestic and stock access licences, regulated river (high security) access licences and regulated river (general security) access licences in the Lower Namoi Regulated River Water Source shall be assessed as the greater of:
  - (a) the volume of water extracted by the approved water supply works nominated by the access licence, or
  - (b) the water ordered for extraction by the approved water supply works nominated by the access licence.
- (5) The water allocation taken under supplementary water access licences in the Lower Namoi Regulated River Water Source shall be assessed as the volume of water extracted, in accordance with announcements and access licence conditions, by the approved water supply works nominated by the access licence.

### **44 Accounting of assigned water allocations and return flows**

- (1) Water allocations assigned from a water allocation account under Chapter 3 Part 2

Division 4 of the Act shall be debited from that water allocation account and water allocations assigned to a water allocation account under Chapter 3 Part 2 Division 4 of the Act shall be credited to that water allocation account.

- (2) Water allocations may also be recredited to access licence water allocation accounts under section 76 of the Act, in accordance with water return flow rules established under section 75 of the Act.

**45 Carrying over of water allocation credits, water allocation account limits and debits for excess losses**

- (1) Water allocation remaining in the water allocation accounts of access licences in the Upper Namoi Regulated River Water Source cannot be carried over from one water year to the next.
- (2) The following rules shall apply to the management of water allocation in the water allocation accounts of local water utility access licences, domestic and stock access licences and regulated river (high security) access licences in the Lower Namoi Regulated River Water Source:
  - (a) the maximum volume that may be held in the accounts at any time shall be 100% of their access licence share component, and
  - (b) water allocation remaining in the accounts cannot be carried over from one water year to the next.
- (3) The following rules shall apply to the management of water allocations in the water allocation accounts of regulated river (general security) access licences in the Lower Namoi Regulated River Water source:
  - (a) water allocation remaining in the accounts may be carried over from one water year to the next,
  - (b) the maximum volume that may be held in the accounts at any time shall be 200% of the access licence share component, and
  - (c) should the water provisions made in accordance with clauses 38 (10) (h) and 38 (10) (i) be expended then any further losses associated with the holding and delivery of water for all access licences in the water source shall be debited to each regulated river (general security) access licence account in proportion to the volume held in the account.
- (4) Water allocation remaining in the water allocation accounts of supplementary water access licences in the Lower Namoi Regulated River Water Source cannot be carried over from one water year to the next.

## Division 3 Extraction conditions

### 46 General priority of extractions

Where extraction components of access licences do not specify the rate as a share of supply capability or a volume per unit time, the following priority of extractions shall apply whenever supply capability is insufficient to satisfy all orders for water in any section of these water sources:

- (a) water shall be supplied to domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for water, and
- (b) then any remaining supply capability shall be shared between regulated river (general security) access licences that have placed an order for water, in proportion to share components specified on the access licences.

### 47 Numerical specification of extraction components

- (1) As soon as possible after the commencement of this Plan, the Minister should amend the extraction components of access licences in Gunidgera Creek and Pian Creek downstream of the Gunidgera Creek Offtake (hereafter **the Gunidgera/Pian system**), in accordance with the mandatory conditions on the access licences.
- (2) Action under subclause (1) should be undertaken as follows:
  - (a) the form of the extraction component to regulated river (general security) access licences and their initial distribution should be determined by the Minister after taking into consideration the physical supply constraints within the Gunidgera/Pian system, the water distribution arrangements existing immediately prior to the commencement of this Plan and any other relevant matters, and
  - (b) the specified rate in the extraction component of each domestic and stock local water utility, and regulated river (high security) access licence should be sufficient to satisfy the maximum daily water needs.
- (3) At any time during the term of this Plan, the Minister may, in accordance with the mandatory conditions on access licences, amend the extraction components of access licences in either of these water sources, or in any section of either of these water sources, other than the Gunidgera/Pian system.
- (4) Action under subclause (3) should be undertaken as follows:
  - (a) the specified rate in the extraction component of each access licence should be a volume per unit of time or a share of supply capability,
  - (b) the specified rate in the extraction component of each domestic and stock local water utility, and regulated river (high security) access licence should be sufficient

to satisfy the maximum daily water needs, and

(c) after satisfying subclause (b), the remaining supply capability should be distributed among regulated river (general security) access licences in proportion to the share component of each access licence.

(5) When action under subclause (3) is undertaken, the Minister may also, in accordance with mandatory conditions on access licences, amend the extraction components of access licences in other sections of these water sources to exclude extractions in sections of the water source affected by the action under subclause (3).

**48 Extraction of water in the Upper Namoi Regulated River Water Source under clause 38 (8) provisions**

(1) Authorisation of the extraction of water pursuant to the provisions of clause 38 (8) by regulated river (general security) access licences in the Upper Namoi Regulated River Water Source should only be given :

(a) for access licences nominating water supply works on the Manilla River downstream of Split Rock Dam, when the flow in the Manilla River at Brabri exceeds the flow needed to satisfy downstream water orders in the Upper Namoi Regulated River Water Source plus any flows resulting from releases made as part of a bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage, by 100 megalitres or more, and

(b) for access licences nominating water supply works on the Namoi River, when the flow in the Namoi River at Manilla Railway Bridge exceeds the flow needed to satisfy downstream water orders in the Upper Namoi Regulated River Water Source plus any flows resulting from releases made as part of a bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage, by 200 megalitres or more.

(2) Authorisations by the Minister, pursuant to the provisions of clause 38 (8), should specify the maximum volume that may be extracted as a percentage of the access licence share component and the period in which the extraction may occur.

(3) The Minister may, under section 42 (2) of the Act and by notice published in the Gazette,

(a) increase the flow exceedance specified in subclause (1) (a) if the installed pump capacity in the Manilla River downstream of Split Rock Dam increases by 20% or more, or

(b) increase the flow exceedance specified in subclause (1) (b) if the installed pump capacity in the Namoi River downstream to Keepit Dam water storage increases by 20% or more.

- (4) An increase under subclause (3) shall be in proportion to the increase in the installed pump capacity.

#### **49 Taking of water under supplementary water licences in the Lower Namoi Regulated River Water Source**

- (1) The taking of water under supplementary water access licences in the Lower Namoi Regulated River Water Source shall only be permitted in accordance with announcements made by the Minister.
- (2) The maximum volume of water that may be taken under supplementary water access licences during each period of time to which an announcement applies shall be expressed as a percentage of each supplementary water access licence share component.
- (3) Taking of water under supplementary water access licences should be managed, as far as possible, to evenly share access opportunity amongst all supplementary water access licences.
- (4) Taking of water under supplementary water access licences should only be permitted:
  - (a) from uncontrolled flows,
  - (b) when flows are in excess of those required to provide replenishment requirements as specified in clause 60, and
  - (c) in accordance with the rules set out in this clause.
- (5) Taking of water under supplementary water access licences in the Lower Namoi Regulated River Water Source shall not be permitted, or shall be restricted, when this is required to ensure outflows from the Lower Namoi Regulated River Water Source contribute to meeting the requirements of the Interim Unregulated Flow Management Plan for the North West.

**Note—**

The Interim Unregulated Flow Management Plan for the North West is also known as the North-West Unregulated Flow Management Plan.

**Note—**

The Namoi is one of a number of Barwon-Darling tributary rivers covered by the Interim Unregulated Flow Management Plan for the North West. Flow targets in the Barwon-Darling specified under that Plan may, at times, be met by flows coming from other rivers or may require contributions of flow from several rivers.

- (6) The requirements of the Interim Unregulated Flow Management Plan for the North West are:
  - (a) a flow of 14,000 megalitres per day (hereafter **ML/day**) in the Darling River at Brewarrina for 5 consecutive days, or 10,000 ML/d in the Darling River at Bourke for 5 consecutive days, during the period September to February inclusive,

providing two such flow events have not already occurred during that period in that water year,

**Note—**

This subclause is intended to provide opportunity for the passage of fish across the major weirs in the Barwon-Darling.

- (b) a flow of 2,000 ML/day in the Darling River at Wilcannia for 5 consecutive days during October to April, inclusive, providing flows of this quantity have not already been reached during the preceding three months within October to April period, and

**Note—**

This subclause is intended to protect flows needed to suppress blue-green algae blooms.

- (c) a flow of:

- (i) 150 ML/day in the Darling River at Wilcannia,
- (ii) 280 ML/day in the Darling River at Louth,
- (iii) 390 ML/day at in the Darling River at Bourke,
- (iv) 550 ML/day at in the Darling River at Brewarrina, and
- (v) 700 ML/day in the Barwon River at Walgett,

**Note—**

This subclause is intended to protect flows needed to meet basic landholder rights requirements in the Barwon-Darling.

- (7) The Minister may under section 42 (2) of the Act and by notice published in the Gazette alter or replace the rule set out in subclause (5) or the requirements set out under subclause (6) should the Interim Unregulated Flow Management Plan for the North West be altered, or replaced by new management arrangements.
- (8) Any action under subclause (7) must:
- (a) only affect the taking of water under supplementary water access licences,
  - (b) only relate to ensuring the taking of water under supplementary water access licences does not jeopardise critical environmental needs or the supply of water to basic rights holders, domestic and stock access licence holders and local water utility access licence holders, in the Barwon Darling, and
  - (c) in the Minister's opinion, not substantially alter the long-term average volume of water that can be taken under supplementary water access licences in the Lower Namoi Regulated River Water Source.

- (9) The supplementary water event start flow and supplementary water event finish flow at Narrabri for the purposes of following subclauses shall be:
- (a) 500 ML/day when the total volume of water allocations in regulated river (general security) access licence accounts is less than or equal to 90,000 megalitres, and
  - (b) those specified in the following table, when the total volume of water allocations in regulated river (general security) access licence accounts is greater than 90,000 megalitres:

<b>Date</b>	<b>Supplementary water event start flow (ML/day)</b>	<b>Supplementary water event finish flow (ML/day)</b>	<b>As measured at</b>
1 August-31 December	5,000	3,000	Narrabri Creek at Narrabri plus Namoi River at Narrabri
1 January-31 January	4,000	2,000	Narrabri Creek at Narrabri plus Namoi River at Narrabri
1 February-31 July	2,000	1,000	Narrabri Creek at Narrabri plus Namoi River at Narrabri

- (10) The supplementary water event start flow and supplementary water event finish flow at locations downstream of Narrabri for the purposes of following subclauses shall be:
- (a) 500 ML/day when the total volume of water allocations in regulated river (general security) access licence accounts is less than or equal to 90,000 megalitres, and
  - (b) those specified in the following table, when the total volume of water allocations in regulated river (general security) access licence accounts is greater than 90,000 megalitres:

<b>Date</b>	<b>Supplementary water event start flow (ML/day)</b>	<b>Supplementary water event finish flow (ML/day)</b>	<b>As measured at</b>
	5,000	3,000	Namoi River at Mollee
1 August-31 December	4,000	2500	Namoi River at Gunidgera Weir
	3,000	2000	Namoi River at Weeta Weir
1 January-31 January	4,000	2,000	Namoi River at Mollee

	3,000	2,000	Namoi River at Gunidgera Weir
	2,000	1,500	Namoi at River Weeta Weir
	2,000	1,000	Namoi River at Mollee
1 February-31 July	2,000	1,000	Namoi River at Gunidgera Weir
	1,500	1,000	Namoi River at Weeta Weir

**Note—**

Subclauses (11) and (12) deal with the calculation of the volume that can be taken during a supplementary water event. Subclauses (13) to (17) deal with when extractions can commence and when they must cease in sections of the Lower Namoi Regulated River Water Source.

**Note—**

Definitions of **uncontrolled flow** and **supplementary water event** are in Schedule 1 of this Plan.

- (11) The volume of water that may be made available for extraction under supplementary water access licences in the Lower Namoi Regulated River Water Source during each supplementary water event should not exceed:
- (a) 10% of the supplementary event volume occurring between 1 July and 31 October during the supplementary water event, and
  - (b) 50% of the supplementary event volume occurring between 1 November and 30 June during the supplementary water event.
- (12) The supplementary event volume for the purposes of subclause (11) shall be the sum of :
- (a) the volume of uncontrolled flows in the river upstream of Narrabri arising from water which entered :
    - (i) after the flows upstream of Narrabri have increased to a rate sufficient to provide an uncontrolled flow at Narrabri equal to the relevant supplementary water event start flow in subclause (9), and
    - (ii) before the flow upstream of Narrabri has decreased to a rate which is no longer sufficient to provide an uncontrolled flow at Narrabri equal to the relevant supplementary water event finish flows in subclause (9), and
  - (b) the volume of uncontrolled flows arising from water which enters the Lower Namoi Regulated River Water Source downstream of Narrabri and upstream of Weeta



Weir, providing that the volume is from water that entered :

- (i) after the flow upstream of the site nominated in subclause (10) had increased to a rate sufficient to provide an uncontrolled flow at the site equal to the relevant supplementary water event start flow in subclause (10), and
  - (ii) before the flow upstream of the site in subclause (i) had decreased to a rate which was no longer sufficient to provide an uncontrolled flow at the site equal to the relevant supplementary water event finish flow in subclause (10), and
- (c) the volume of uncontrolled flows arising from water which enters the Lower Namoi Regulated River Water Source downstream Weeta Weir providing that the volume is from water that entered after uncontrolled flows had increased to a rate sufficient to:
- (i) ensure a flow of 200 ML/day for 5 days would be achieved in the Namoi River at Walgett, when the total volume of water allocations in regulated river (general security) access licence accounts is greater than 90,000 megalitres, or
  - (ii) ensure a flow of 10 ML/day, when the total volume of water allocations in regulated river (general security) access licence accounts is less than 90,000 megalitres.

(13) The taking of water under supplementary water access licences nominating water supply works upstream of the Namoi River at Narrabri :

- (a) should not commence until the flows upstream of Narrabri have increased to a rate sufficient to provide an uncontrolled flow at Narrabri equal to the relevant supplementary water event start flow in subclause (9), and
- (b) should cease when the flows upstream of Narrabri have decreased to a rate which was no longer sufficient to provide the an uncontrolled flow at Narrabri equal to the relevant supplementary water event finish flows in subclause (9).

(14) When all uncontrolled flows are arising from inflows to the water source upstream of Narrabri, the taking of water under supplementary water access licences nominating water supply works downstream of the Namoi River at Narrabri :

- (a) should not be permitted until “X” days after the uncontrolled flow in the Namoi River at Narrabri has increased to a rate equal to the relevant supplementary water event start flow in subclause (9), and
- (b) should cease “X” days after the uncontrolled flow in the Namoi River at Narrabri has decreased to a rate equal to the relevant supplementary water event finish flows set out in subclause (9).

where **X** is the time of travel in days between Narrabri and the location of the water

supply works.

(15) When uncontrolled flows are arising from inflows to the water source downstream of Narrabri and upstream of Weeta Weir, the taking of water under supplementary water access licences nominating water supply works downstream of the Namoi River at Narrabri:

- (a) may be permitted “Y” days after the uncontrolled flow at a site nominated in subclause (10) has increased to a rate equal to the relevant supplementary water event start flow in subclause (10), and
- (b) may continue until “Y” days after the uncontrolled flow at the site in subclause (a) has decreased to a rate equal to the relevant supplementary water event finish flows set out in subclause (10).

where **Y** is the time of travel in days between the site in subclause (a) and the location of the water supply works.

(16) When uncontrolled flows are arising from inflows to the Lower Namoi Regulated River Water Source downstream of Weeta Weir, the taking of water under supplementary water access licences nominating water supply works downstream of the Weeta Weir may be permitted after uncontrolled flows have increased to a rate sufficient to:

- (iii) ensure a flow of 200 ML/day for 5 days would be achieved in the Namoi River at Walgett, when the total volume of water allocations in regulated river (general security) access licence accounts is greater than 90,000 megalitres, or
- (iv) ensure a flow of 10 ML/day, when the total volume of water allocations in regulated river (general security) access licence accounts is less than 90,000 megalitres.

(17) Taking of water under supplementary water access licences nominating water supply works on Gunidgera/Pian system shall be managed so that the flow passing Dundee Weir during the period when the taking of water is permitted is the lesser of:

- (a) 100 ML/day, or
- (b) the inflows entering the Gunidgera/Pian system as a result of rainfall on its catchment downstream of the Gunidgera Creek offtake.

**Note—**

Taking of water on the Gunidgera/Pian system must not result in subclause (11) or other relevant subclauses being breached. Subclause (17) is an additional provision affecting taking of water on the Gunidgera/Pian system.

**Note—**

Regardless of any announcement permitting supplementary water access, any water orders in the system will be debited against the regulated river (general security) account on release from the Dam as indicated in clause 43

(4). Failure to extract ordered water in the system and the taking of supplementary water instead will result in a debit to the regulated river (general security) account and recording of use against the supplementary water access licence.

## **Part 10 Access licence dealing rules**

### **50 Access licence dealing rules**

(1) This Part is made in accordance with section 20 (1) (d) 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 access licence dealing principles referred to in (1) are contained in Appendix 5.

(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—**

Access licence dealings include changes of licence ownership, conversions of licence category, movement of share component from one access licence to another access licence, movement of water allocation from one access licence allocation account to another access licence allocation account and changes in the location of water supply that can take water available under the licence. These dealings must comply with the provisions 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.

### **51 Rules relating to constraints within this water source**

(1) This clause relates to dealings under sections 71B, 71D, 71G, and 71J of the Act.

(2) Any dealing that would result in an increase in the total share components of regulated river (high security) access licences nominating water supply works downstream of the Namoi River at Mollee Weir is prohibited.

(3) Until extraction components for access licences in the Gunidgera/Pian system have been amended in accordance with clause 47, a dealing is prohibited if it would result in:

(a) the total volume of share components of domestic and stock access licences, regulated river (high security) access licences and regulated river (general security) access licences nominating water supply works on the Gunidgera/Pian system exceeding the total volume at the commencement of this Plan, or

(b) the total volume of water allocations assigned to access licences, other than

supplementary water access licences, nominating water supply works on the Gunidgera/Pian system during a water year exceeding the total volume of water allocations assigned from access licences, other than supplementary water licences, nominating water supply works in the Gunidgera/Pian system to access licences nominating water supply works not on the Gunidgera/Pian system during the water year.

- (4) A dealing is prohibited if it would result in:
- (a) the total volume of share components of supplementary water access licence nominating water supply works in the Gunidgera/Pian Creek system exceeding the total volume at the commencement of this Plan, or
  - (b) the total volume of water allocations assigned to supplementary water access licences, nominating water supply works on the Gunidgera/Pian system during a water year exceeding the total volume of water allocations assigned from supplementary water licences, nominating water supply works in the Gunidgera/Pian system to access licences nominating water supply works not on the Gunidgera/Pian system during the water year.
- (5) Assignment of water allocations from a supplementary water access licence water allocation account to an access licence of any other access licence category is prohibited.
- (6) Assignment of water allocations to a supplementary water access licence water allocation account from an access licence of any other access licence category is prohibited.

## **52 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 effected, 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) Access licences in other water sources outside of these water sources may be issued following cancellation of access licences in either of these water sources only if:
- (a) the access licence dealing rules in the receiving water source permit such a dealing, and
  - (b) a conversion factor, established by the Minister and published in an order made under section 71L of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source, has been applied.

- (3) Access licences in either of these water sources may be issued following cancellation of access licences in a water source outside of these water sources only if:
- (a) the access licence dealing rules in the other water source permit such a dealing, and
  - (b) a conversion factor, established by the Minister and published in an Order made under section 71L of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in these water sources, has been applied.

**Note—**

The access licence dealing principles gazetted on 27 December 2002 prohibit a change of water source dealing where the movement is from an unregulated river water source to a regulated river water source.

- (4) An access licence in one of these water sources may be issued following cancellation of an access licence in the other of these water sources.
- (5) The share component volume of a new access licence issued in accordance with subclause (4) is to be equal to the share component volume of the cancelled access licence.

**53 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 is prohibited except as provided for under this clause.
- (3) On application of the access licence holder, the Minister may cancel a regulated river (general security) access licence, and issue a regulated river (high security) access licence, subject to:
- (a) the application of a conversion factor established by the Minister and published in an Order made under section 71L of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in these water sources, and
  - (b) the volume of water in the regulated river (general security) access licence water allocation account being equal to or greater than its share component volume.

**Note—**

The volume of water in the regulated river (general security) access licence water allocation account which is in excess of the share component volume of the new regulated river (high security) access licence will not be credited to the new regulated river (high security) access licence account.

**Note—**

Clause 51 constraints apply to conversions also. This means that conversion of regulated river (general security) access licences to regulated river (high security) access licences cannot occur if the resulting high security licence would nominate works downstream of the Namoi River at Mollee Weir.

- (4) On application of the access licence holder, the Minister may cancel a regulated river (high security) access licence, and issue a regulated river (general security) access licence, subject to:
  - (a) the application of a conversion factor equal to one divided by the conversion factor established in subclause (3), and
  - (b) the total volume of regulated river (general security) access licence share components not increasing above the total volume of regulated river (general security) access licence share components at the time of commencement of Part 2 of Chapter 3 of the Act.

**Note—**

This would allow conversion of a regulated river (high security) access licence to a regulated river (general security) access licence only if there had been a corresponding or larger volume of regulated river (general security) access licence share component converted to regulated river (high security) access licence.

#### **54 Rules for interstate access licence transfer**

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Access licence equivalents in other States may not be transferred into these water sources.
- (3) Access licences in these water sources may not be transferred into another State.

#### **55 Rules for water allocation assignment between water sources**

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

**Note—**

Rules in clause 51 also apply to such assignments.

- (2) Water allocations may be assigned from the water allocation account of an access licence in one of these water sources to the water allocation account of an access licence in the other of these water sources subject to subclauses (3) and (4).
- (3) Water allocations should not be assigned from the water allocation account of an access licence in the Upper Namoi Regulated River Water Source to the water allocation account of an access licence in the Lower Namoi Regulated River Water Source if there is a significant risk that the rate at which water can be released from Keepit Dam water storage during the remainder of the water year will be insufficient to meet likely water orders.

**Note—**

The maximum rate of water release from Keepit Dam water storage is severely reduced when water storage levels are low.

- (4) The assignment of water allocations from access licences in the Lower Namoi Regulated River Water Source to access licences in the Upper Namoi Regulated River Water Source is prohibited unless:
  - (a) the sum of available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water source during the water year is equal to the maximum percentage permissible under clause 38, and
  - (b) there is sufficient water available in Split Rock Dam water storage to supply the assigned water allocations.
- (5) Water allocations from the water allocation account of an access licence in these water sources may not be assigned to the water allocation account of an access licence in any other water source.
- (6) Water allocations from the water allocation account of an access licence in any other water source may not be assigned to the water allocation account of an access licence in these water sources.

## **56 Rules for interstate assignment of water allocations**

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Water allocation equivalents from other States may not be assigned to the water allocation accounts of access licences in this water source.
- (3) Water allocations from the water allocation accounts of access licences in this water source may not be assigned to water allocation equivalents in other States.

## **Part 11 Mandatory conditions**

### **57 Mandatory conditions on access licences**

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.

**Note—**

The Minister may impose discretionary conditions at any time on an access licence in accordance with section 66 (1) (b) of the Act.

- (2) All access licences in these water sources shall have mandatory conditions to give effect to the following:
  - (a) the specification of the share component of the access licence,
  - (b) the specification of the extraction component of the access licence,

- (c) the requirement that extraction under the access licence shall be subject to the available water determinations,
  - (d) the requirement that extraction under the access licence shall be subject to the water allocation account management rules established in Part 9 of this Plan,
  - (e) the requirement that the taking of water in accordance with the access licence may only occur if the resulting debit to the access licence account will not exceed the volume of water allocation remaining in the licence account,
  - (f) the requirement that water may only be taken by water supply works nominated on the access licence, and
  - (g) any other conditions required to implement the provisions of this Plan.
- (3) All access licences shall have a mandatory condition that facilitates the provisions of clause 47 of this Plan.
- (4) All domestic and stock access licences, local water utility access licences and regulated river (high security) access licences shall have mandatory conditions that only allow the taking of water if it has been ordered in accordance with procedures established by the Minister.
- (5) All regulated river (general security) access licences in the Upper Namoi Regulated River Water Source shall have mandatory conditions that only allow the taking of water if it has been ordered in accordance with procedures established by the Minister, except in relation to water extracted under the provisions of clause 38 (8).
- (6) All regulated river (general security) access licences in the Lower Namoi Regulated River Water Source shall have mandatory conditions:
- (a) that only allow the taking of water if it has been ordered in accordance with procedures established by the Minister, and
  - (b) to give effect to the provisions of clause 33 of this Plan.
- (7) All supplementary water access licences shall have mandatory conditions that only allow the taking of water in accordance with announcements, as specified in clause 49, and after satisfying any procedures established by the Minister,
- (8) All domestic and stock access licences, other than domestic and stock (domestic only) access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption or stock watering as defined in section 52 of the Act.
- (9) All domestic and stock (domestic only) access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption as defined in section 52 of the Act.



- (10) All local water utility access licences shall have mandatory conditions that only allow the taking of water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act.

### **58 Mandatory conditions on water supply works approvals**

All approvals for water supply works in these water sources shall have mandatory conditions to give effect to the following:

- (a) flow measurement devices shall be installed and maintained on all works used for extraction of water under an access licence and shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction, property water management infrastructure and cropping details shall be provided on request, in the form and in accordance with procedures established by the Minister, and
- (c) the taking of water may only occur in accordance with the conditions applying to the access licence from whose water allocation account the taking of water will be debited.

## **Part 12 System operation rules**

### **59 System operation rules**

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

### **60 Replenishment flows**

- (1) Replenishment flows of up to a total volume of 14,000 megalitres in any water year shall be provided to Pian Creek downstream of Dundee Weir if required.
- (2) Sufficient volumes of water must be set aside from assured inflows into these water sources and in reserves held in Split Rock Dam water storage, Keepit Dam water storage or other water storages to provide for subclause (1).

### **61 Water delivery and channel capacity constraints**

Where necessary for determining extraction rights, managing water releases or providing water under access licences, the maximum water delivery or operating channel capacity shall be determined and specified in accordance with procedures established by the Minister, taking into account:

- (a) inundation of private land or interference with access,
- (b) the effects of inundation on the floodplain and associated wetlands,
- (c) the transmission losses expected to occur,

- (d) capacities of water management structures controlled by the Minister, and
- (e) the SWMOP targets.

**Note—**

The following capacities have been assessed:

- Pian Creek channel downstream from Gunidgera offtake has a capacity of 2,000 ML/day—80% being 1,600 ML/day, and
- Gunidgera offtake, which regulates flows into Pian Creek has a capacity of 1,250 ML/day.

## **62 Rates of change to releases from water storages**

Rules regarding rates of change to releases from water storages should be specified in accordance with procedures established by the Minister, and should take into account:

- (a) relevant environmental considerations,
- (b) damage to river banks, and
- (c) public safety.

## **63 Bulk transfer rules between storages**

- (1) Any bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage should be carried out in a manner that minimises adverse environmental impacts.
- (2) Prior to making any bulk transfer from Split Rock Dam water storage to Keepit Dam water storage the Minister should:
  - (a) determine an appropriate pattern of release from Split Rock Dam, taking into consideration the volume and time requirements of the bulk transfer and the need to minimise downstream environmental impacts,
  - (b) consult with water users on the upper Namoi and Manilla Rivers regarding the pattern of release,
  - (c) provide a minimum of 14 days notice of the intended release to water users between Split Rock Dam and Keepit Dam water storage,
  - (d) conduct appropriate monitoring, and
  - (e) advise the community regarding the intended water releases through media releases.

**Note—**

Bulk transfer releases from Split Rock Dam water storage can have significant impacts on farming operations and the river environment.

#### **64 Supply of orders when remaining allocations are low**

- (1) If, in the opinion of the Minister, the total remaining volume of water in access licence allocation accounts has reduced to a level where the continuous delivery of water orders would involve unacceptably high delivery losses, water orders may be grouped and released periodically.
- (2) The Minister should seek advice from irrigation industry representatives regarding the circumstances under which action under subclause (1) should be taken and the manner of management.

#### **65 Dam operation during floods and spills**

- (1) The operation of Keepit Dam during times of flood and spilling of water is to be undertaken in a manner that maintains the safety of dam infrastructure.
- (2) Providing it is consistent with subclause (1), operation :
  - (a) should leave the storage at full supply level at the completion of the flood or spilling of water,
  - (b) during floods should ensure the general rate of increase of outflow from the water storage does not exceed the rate of increase of inflow to the water storage, and
  - (c) should aim to lessen downstream flood damage, where possible.

**Note—**

Split Rock Dam has a free overflow spillway and as such there are no flood operation procedures.

### **Part 13 Monitoring and reporting**

#### **66 Monitoring**

The monitoring of the performance indicators specified in clause 12 of this Plan shall be undertaken by the Minister.

**Note—**

Review and 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. Any improvements to environmental outcomes and water supply delivery resulting from the completion of remedial works to Keepit Dam may be relevant to this review.

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—**

#### 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 are included in the annual report for the Department.

## Part 14 Amendment of this Plan

### 67 Changes to these water source

The Minister, under section 42 (2) of the Act and by notice published in the Gazette, may add a river or section of river to one of these water sources or remove a river or section of river from one of these water sources providing that:

- (a) any river or section of river that is added has been declared to be a regulated river by an order published in the Gazette, and
- (b) the Minister is satisfied that there will be no impact on environmental water, or on the water available to any access licences in these water sources.

### 68 Other amendments of this Plan

The Minister, under section 42 (2) of the Act and by notice published in the Gazette amend this Plan in accordance with the following clauses:

- (a) clause 38 in respect the specified storage capacity volumes relating to available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source,
- (b) clause 48 in respect to flow exceedances required for authorisation of extraction of water by regulated river (general security) access licences in the Upper Namoi Regulated River Water Source pursuant to the provisions of clause 38 (8), and
- (c) clause 49 (7) in respect to in respect to the requirements or arrangements affecting taking of water under supplementary water access licences in the Lower Namoi Regulated River Water Source.

## Dictionary

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

**airspace** is a volume in a **water storage**, which is kept empty for the purpose of mitigating potential floods.

**assured inflows** are the volumes of water which historic hydrologic information indicates are the minimum which can expected to flow into the water source.

**available water** in relation to a water management area or water source, is the water that is available in that area or water source in accordance with an **available water determination** that is in force in respect of that area or water source.

**available water determination** is a written order by the Minister as to the availability of water for the various categories of access licence in relation to a specified water management area or water source.

**Department** is the Department of Land and Water Conservation or its successor.

**bulk transfer** is the release of water from an upstream water storage for the purpose of supplementing the volume of water held in a downstream water storage, generally so that the downstream storage can maintain releases necessary to meet downstream water requirements in times of drought.

the **Cap** is as defined in Schedule F of the Murray Darling Basin Agreement.

**Cap baseline conditions** are those used for assessment of Cap in Schedule F of the Murray Darling Basin Agreement and relate to the level of water resource development at June 1994.

**conversion factor** refers to the adjustment factor that may be applied to the size of share components when they are part of a dealing under 71B or 71E of the Act.

**extraction component** is the extraction component of an access licence as defined in 56 (1) of the Act.

**floodplain harvesting** is the collection or capture of water flowing across floodplains.

**full supply volume** is the volume of water held in a **water storage** at the **full supply level**

**full supply level** is the storage level considered to be the limit for the purposes of storage of water, except in periods of flood operation.

**long-term average annual extraction** is the average of annual water extractions from the water source over the period for which an assessment is carried out.

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

**natural 95<sup>th</sup> percentile daily flow for each month** is the computer model generated daily flow that is exceeded in 95% of days over the entire modelled period in each of the 12 calendar months, using the hydrologic computer model that, at the time, is approved for determining natural flows (ie river flows without water storages or water extractions) in these water sources.

**Murray Darling Basin Agreement** is the agreement between the Commonwealth of Australia and the states of New South Wales, Victoria and South Australia as referred to in the *Murray Darling Basin Act 1992*, for the purpose of promoting and co-ordinating effective planning and management for the equitable, efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.

**replenishment flows** are flows provided to refill pools and water holes in effluent river systems downstream of the water source and provide water for household and town use and stock.

**reserves** are volumes of water put aside in a **water storage** to allow the supply of future water requirements.

**share component** is the share component of an access licence as defined in 56 (1) of the Act and, for the purposes of this Plan, any right to take water under the [Water Act 1912](#) that gives rise to share component of an access licence under the [Water Management Act 2000](#) (as amended).

**supplementary water event** is a continuous period during which the taking of water under supplementary water access licences is being permitted in all or part of the Lower Namoi Regulated River Water Source

**supply capability** is defined as the rate at which water that can be supplied to a section of a water source after satisfying the environmental water provisions and the requirements for water to satisfy basic land holder rights.

**uncontrolled flow** is flow, in excess of that needed to meet the environmental provisions of this Plan, basic landholder rights and water orders placed by regulated river (general security) access licences and higher priority access licences in a water source.

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

**water supply system** includes the water storages and all other factors influencing water supply that are under the control of the Minister.

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

**water year** is a 12 month period 1 July to 30 June

## **Schedule 2 Contribution to relevant targets in December 2002 SWMOP**

### **Levels of assessed contribution:**

FULL contributes to target in full

HIGH while not fully contributing to target, there is a good level of contribution

PARTIAL goes some way to contributing to the target

LOW only small degree of contribution to target

<b>Relevant SWMOP Target</b>	<b>Level of Contribution</b>	<b>Comments</b>
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**Target 1a** Extractions in Murray Darling Basin’s regulated rivers limited to the level of the long-term average annual extraction below the Murray Darling Basin Ministerial Council (MDBMC) Cap which results from the long-term impact of the environmental water rules.

FULL

- This Plan clearly sets out the basis for the long-term extraction limit in Part 8.

**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

- Rules set out in Part 8.

**Target 2** All water 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.

PARTIAL

- This Plan improves moderate to high flows compared to Cap but low to median flows have not been improved.
- 3 fish species occurring in the Namoi have been listed as threatened (Purple-spotted gudgeon, olive perchlet, silver perch) which may be assisted by improvement in high flows, however low flows are critical to these species and this Plan will not assist in this respect.

**Target 4a** Where the frequency of “end of system” daily flows would be less than 60 percent of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60 percent of predevelopment levels or increased by at least 10 percent of the predevelopment frequency.

FULL

- The frequency of flows between the 10<sup>th</sup> and 90<sup>th</sup> percentiles have been met.

**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 95<sup>th</sup> percentile.

PARTIAL

- The current computer model for the Namoi River system is not able to accurately assess the occurrence of end of system flows as low as the predevelopment 95<sup>th</sup> percentile (about 14 ML/day).
- The pre-Plan management rules for the Namoi did not provide a specific daily end of system flow target.
- This Plan includes an end of system target for the months of June, July, and August, which is equivalent to 75% of the natural 95<sup>th</sup> percentile flow.

**Target 4c** The channel capacity of all lower river and effluent creek systems used for the delivery of regulated water determined. Subject to reasonable socio-economic impacts, limits on daily supply volumes established for effluent systems such that they do not exceed 80 percent of the channel capacity for more than 10 percent of days in each month of each year. Where daily supply volumes are currently substantially less than channel capacity, alternative limits established to reduce the impact of unseasonal flows arising from future access licence dealings.

PARTIAL

- This Plan provides for the determination of maximum operating channel capacities, in accordance with the SWMOP target.
- This Plan also provides for the distribution of numerical extraction rights that could be used to facilitate management to desired capacity targets.
- This Plan also notes a number of maximum channel capacity constraints for Pian Creek and Gunidgera off-take at the commencement of this Plan. However these are only expressed as a note and are therefore not actually part of this Plan.

**Target 5** Access rights for water access licensees clearly and legally specified in terms of share and extraction components.

FULL

- Access for existing regulated supply licences and supplementary water access licences are specified and tradeable.

**Target 9a** Flow thresholds for declaration of supplementary water access, which take into account environmental needs, clearly specified.

FULL

- This Plan specifies rules for access in Part 9.

**Target 9b** Annual limits on supplementary water extractions, consistent with the long-term average annual extraction limits, established in all regulated river water sources.

FULL

- This Plan sets the maximum annual extraction for supplementary access licences at the full entitlement of 110,000 megalitres.

**Target 9c** Rules for sharing between supplementary water licence holders made explicit.

PARTIAL

- This Plan does not clearly specify any sharing rules however it does provide for “evenly sharing” access between supplementary water access licences.

**Target 9d** Supplementary access licence dealings made possible in regulated river water sources, subject to extraction limits and environmental assessment and Aboriginal spiritual and cultural constraints.

HIGH

- Trading of supplementary access water is permitted

**Target 12** Supplementary access licence dealings made possible in regulated river water sources, subject to extraction limits and environmental assessment and Aboriginal spiritual and cultural constraints.

FULL

- Obligations are set out in Part 5



<p><b>Target 14</b> 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>PARTIAL</p>	<ul style="list-style-type: none"> <li>• The supporting documentation in the publicly exhibited plan identified the ecosystems that are of particular importance to Aboriginal people.</li> <li>• This Plan would be expected to provide benefits to some elements these ecosystems.</li> </ul>
<p><b>Target 16a</b> All share components of access licences tradeable.</p>	<p>HIGH</p>	<ul style="list-style-type: none"> <li>• All entitlements (including supplementary water) will be tradeable under this Plan, however some restrictions will apply.</li> </ul>
<p><b>Target 16c</b> Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water.</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• Trading between water sources are in line with Government policy.</li> </ul>
<p><b>Target 16d</b> 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"> <li>• This Plan does not impose reduction factors.</li> </ul>
<p><b>Target 16f</b> Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit.</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• This Plan establishes some water transfer zones with transfer restrictions applying to them.</li> </ul>
<p><b>Target 35</b> All water management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current ANZEC Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries.</p>	<p>LOW</p>	<ul style="list-style-type: none"> <li>• This Plan includes a water quality objective.</li> <li>• However, it is doubtful this Plan will deliver any significant water quality improvements.</li> </ul>

## Appendix 1 Rivers and lakes in these water sources

At the commencement of this Plan the **Upper Namoi Regulated River Water Source** includes the following:

- (i) Manilla River from the upper limit of the Split Rock Dam storage, downstream to its junction with the Namoi River, including all tributaries to the storage (named and unnamed) up to the high water mark of the storage, and
- (ii) Namoi River from its junction with the Manilla River to the upper limit of the storage of Keepit Dam.

At the commencement of this Plan the **Lower Namoi Regulated River Water Source** includes the following:

- (i) Anabranh of Namoi River, offtaking in T.S.R. 31104, Parish of Tipereena, County of Nandewar,

- (ii) Duncan Warrambool,
- (iii) Gunidgera Creek, offtaking from the Namoi River within T.S.R. 10783, Parish of Tulladunna, County of Jamison, downstream to the northern boundary of portion 21, Parish of Merah, County of Jamison,
- (iv) Horsearm Creek, from its confluence with Narrabri Creek upstream to a point coinciding with the upstream alignment of the Narrabri to Wee Waa road bridge on Main Road No. 127 located in the town of Narrabri, Parish of Narrabri, County of Nandewar,
- (v) Namoi River, from the upper limit of Keepit Dam storage downstream to the offtake of Narrabri Creek, including all tributaries to the storage (named and unnamed) up to high water mark of the storage,
- (vi) Namoi River from its confluence with Narrabri Creek to Barwon River,
- (vii) Narrabri Creek,
- (viii) Pian Creek, from the confluence of unnamed watercourse within portion 27, Parish of Pian, County of Jamison, the confluence being approximately 200 metres east of the western boundary of portion 27 and approximately 400 metres north of the southwestern boundary of that portion, downstream to the northernmost western boundary of portion 37, Parish of Murra Murra, County of Denham,
- (ix) Ulled lagoon,
- (x) Unnamed watercourse, offtaking from Gunidgera Creek within portion 4, Parish of Weeta Waa, County of Jamison, downstream to its confluence with Pian Creek, within T.S.R. 27151, Parish of Pian, County of Jamison,
- (xi) Unnamed watercourse, from its offtake from Namoi River, in portion 10, Parish of Bullerawa, County of Baradine, to its re-entry in portion 11, said Parish, and
- (xii) Warriar lagoon.

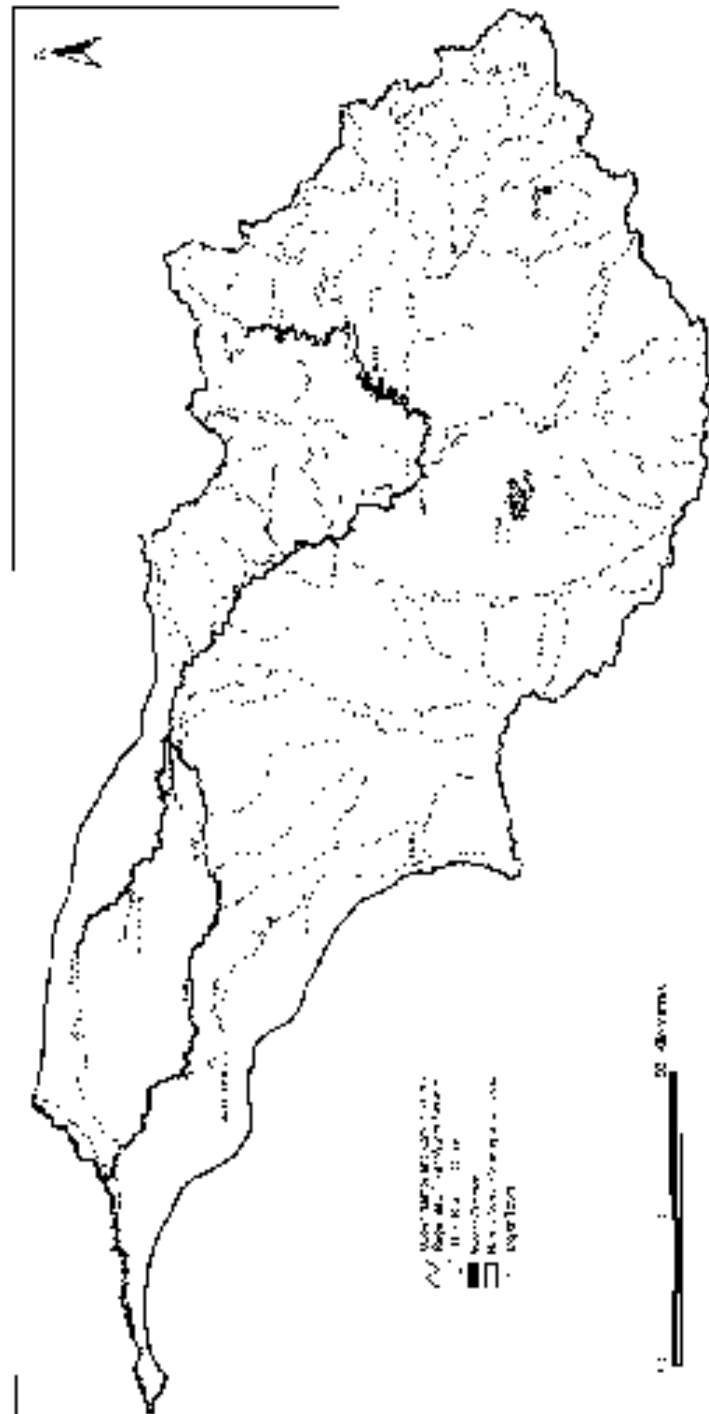
**Note—**

Pian Creek from Dundee Weir to its junction with the Namoi receives domestic and stock replenishment flows from these water sources, but does not itself, form part of these water sources.

**Note—**

The Namoi Regulated River Water Source does not include the Peel River.

## Appendix 2 Namoi Water Management Area



## Appendix 3 State floodplain harvesting principles

### Section 1 Definition and categories of floodplain harvesting

- (1) Floodplain harvesting is the collection, extraction or impoundment of water flowing

across floodplains. The floodplain flows can originate from local runoff that has not yet entered the main channel of a river, or from water that has overflowed from the main channel of a river during a flood. For the purposes of this policy the floodplain is defined as extending to the 1 in 100 year flood line.

- (2) Floodplain harvesting can generally be put into one of three categories:
  - (a) diversion or capture of floodplain flows using purpose built structures or extraction works to divert water into storages, supply channels or fields or to retain flows,
  - (b) capture of floodplain flows originating from outside of irrigated areas using works built for purposes other than floodplain harvesting. Examples are:
    - (i) levees and supply works such as off river storages constructed in billabongs or depressions that fill from floodplain flows, and
    - (ii) below ground level water channels from which the water is pumped into on farm storages, and
  - (c) opportunistic diversions from floodplains, depressions or wetlands using temporary pumps or other means.

**Note—**

Capture of rainfall or runoff from farm irrigation fields, via tailwater systems or other means, is not floodplain harvesting.

## **Section 2 Floodplain harvesting management issues**

- (1) The harvesting of water from floodplains reduces the amount of water reaching or returning to rivers. This decreases the amount of water available to meet downstream river health, wetland and floodplain needs and the water supply entitlements of other users.
- (2) Floodplain harvesting can seriously affect the connectivity between the local floodplain, wetlands and the river, through the loss of flow volume and redirection of water flows.
- (3) The [Water Act 1912](#) provided powers to license floodplain harvesting. However this was never applied as there was generally no requirement to restrict total overall water extractions or off-allocation diversions. Harvested floodplain water has been treated as a freely available bonus to a farmer's licensed entitlement.
- (4) This situation has now changed. The Murray-Darling Basin cap applies to all water diverted from inland NSW catchments and rivers. Licensed and off-allocation access has been subject to increasing restrictions. Embargoes on water licences are also in place on many areas on the coast.
- (5) Floodplain harvesting works and water extractions also clearly fall into those activities

that the *Water Management Act 2000* requires to be only undertaken by way of a licence. The Act also requires such licensing to consider the ecological functioning of floodplains.

- (6) Floodplain harvesting can no longer be left outside of the State's water management and compliance system or as a source of increase in further water extractions. Given this, it is the Government's intention that floodplain harvesting works and taking of water from floodplains be licensed and managed. It will take a number of years to complete the process. However, the water sharing plans must signal the basic principles that will govern the process.

### **Section 3 Management of floodplain harvesting**

- (1) Floodplain harvesting will not be a component of individual water sharing plans being produced for the regulated and unregulated rivers. During flood times water originating in one river system may flow across floodplains and along "flood runners" into adjacent river systems. It is therefore often not possible to assign an area of floodplain to a particular river.
- (2) Management of floodplain harvesting will occur on a state-wide basis, according to the six principles set out in section 4.
- (3) There are many thousands of existing floodplain works which will require licensing and this will be done over the next couple of years. The licensing process will include proper environmental impact assessments.
- (4) A separate category of licence will be established.

### **Section 4 Floodplain harvesting principles**

- (1) Principle 1 is that all existing floodplain harvesting works and floodplain harvesting extractions will be licensed.
- (2) Principle 2 is that licensing will focus initially on controlling the structures, but with movement towards specifying volume limits and flow related access conditions, including metering of pumps

#### **Note—**

While all surface and groundwater licences now (or will shortly) specify volume entitlements or annual limits to water, it is not possible to do this for floodplain harvesting licences at this stage. This is because the pattern of use is highly episodic and site and infrastructure specific, and current data on structures and use is minimal.

The Department of Land and Water Conservation will licence existing structures and specify monitoring of use (including metering of pumps) as a licence condition where possible. This may not be possible initially in cases where a tailwater system is also picking up floodplain water as they are difficult to separate, or where overland flow is being captured by a billabong for which we do not have any information on its capacity. Options for application of volumetric conditions will be developed and implemented where appropriate within the first five years of the initial water sharing plans.

- (3) Principle 3 is that no new works or expanded floodplain harvesting activities in the Murray-Darling Basin that will result in the diversion of additional water will be authorised.

**Note—**

All new floodplain harvesting works are required by law to be licensed. However, as any new works would result in a growth in diversion, which would threaten river health and/or the water entitlements of others, such works would have to be offset by a reduction in other forms of water diversion.

- (4) Principle 4 is that floodplain diversions associated with works in place in the Murray-Darling Basin prior to the end of the 1994 irrigation season will be considered as within the NSW cap.

**Note—**

Because cap is based on the use of water with development as it was in 1994, NSW considers that the water use that would result from use of the floodplain infrastructure in place in 1994, is part of the cap in each system.

- (5) Principle 5 is that once licensing is completed, an assessment of long-term use resulting from authorised structures against that from structures which existed in 1994 will be carried out and appropriate steps taken to keep harvesting to cap levels.

**Note—**

It is likely that there has been some growth in floodplain harvesting works and extractions since 1994. However, it is expected that the licensing process will result in some modification of existing works. This may be adequate to offset any post 1994 development. If not, restrictions on the use of the licensed works will have to be applied to return diversions to cap levels. Such restrictions could include restrictions on pumping times or a requirement to modify the work to allow a proportion of flows to be bypassed. By preventing the construction or enlargement of new works, the opportunity for any further growth in floodplain harvesting diversions will be minimised.

- (6) Principle 6 is that floodplain harvesting rights will not be tradeable.

**Note—**

Trading of floodplain harvesting rights will not be permitted because the frequency and volume of use is site and infrastructure specific, and volume management will take some time to implement.

## Appendix 4 Performance indicators

### Performance indicators for the Upper Namoi and Lower Namoi Regulated River Water Sources Water Sharing Plan

Performance indicator	Related objective	Assessed by	Commentary
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- |   |                      |   |  |
|---|----------------------|---|--|
| <p>(a) Change in ecological condition of this water source and dependent ecosystems..</p> | <p>clause 10 (a)</p> | <ul style="list-style-type: none"> <li>• Monitoring of ecological response to changed flow regimes, under the Integrated Monitoring of Environmental Flows program (<b>IMEF</b>) (each water source will have specific hypotheses from the set developed under IMEF).</li> <li>• Other relevant studies as may be undertaken in specific water sources.</li> </ul>  | <ul style="list-style-type: none"> <li>• IMEF tests a number of hypotheses to indicate how elements of river ecology respond to different aspects of the flow regime (including environmental flow rules, irrigation flows, and floods and wetland connectivity).</li> </ul>   |
| <p>(b) Change in low flow regime.</p>   | <p>clause 10 (a)</p> | <ul style="list-style-type: none"> <li>• Number of days per water year where flow is below natural 95<sup>th</sup> and 80<sup>th</sup> percentiles.</li> <li>• Average and maximum number of days per water year of continuous periods of flow which is below natural 95<sup>th</sup> and 80<sup>th</sup> percentiles.</li> <li>• Measurement at end of system and specified key sampling sites.</li> </ul> | <ul style="list-style-type: none"> <li>• River Flow Objectives (RFOs) 1 and 6.</li> <li>• RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health.</li> </ul> <p><b>Note—</b></p> <p style="padding-left: 20px;">Not every objective is relevant to every river in NSW.</p> <ul style="list-style-type: none"> <li>• Analysis would need to incorporate reference to seasonal indicators.</li> <li>• Long-term modelling will reflect the influence of climate on flows.</li> <li>• Appropriate data relating to flow distribution, such as summer/ winter cropping balance, agronomical practices, on farm storage development, management and operation of environmental releases etc.</li> <li>• Baseline should be the modelled water sharing plan scenario (rather than natural flows).</li> </ul> |

(c) Change in moderate to high flow regime.	clause 10 (a)	<ul style="list-style-type: none"> <li>• Number of days per water year where flow is above natural 30<sup>th</sup>, 15<sup>th</sup> and 5<sup>th</sup> percentiles.</li> <li>• Average and maximum number of days per water year of continuous periods of flow which is above natural 30<sup>th</sup>, 15<sup>th</sup> and 5<sup>th</sup> percentiles.</li> <li>• Measurement at end of system and other key sampling sites in these water sources.</li> </ul>	• RFO 3.
(d) Change in water quality.	clause 10 (a) clause 10 (f)	<ul style="list-style-type: none"> <li>• Assessment and statistical analysis of key water quality parameters, and relationship to flow.</li> </ul>	<ul style="list-style-type: none"> <li>• This Plan's rules will contribute to a long-term change in water quality by affecting flow regimes and flow management to address issues such as algal management.</li> <li>• There are many non-water sharing plan related factors that affect water quality (eg land-based activities and thermal pollution).</li> </ul>
(e) Extent to which basic landholder rights requirements have been met.	clause 10 (c)	<ul style="list-style-type: none"> <li>• Basic rights allowances made according to plan provisions/ implementation program requirements.</li> <li>• Flows adequate to meet basic rights requirements (taking into consideration allowances for delivery).</li> </ul>	<ul style="list-style-type: none"> <li>• Basic rights usage figures in water sharing plans are estimated volumes (not actual use).</li> <li>• Basic rights represents a very small proportion of water extraction in regulated systems.</li> </ul>
(f) Extent to which local water utility and major utility requirements (where major utilities are involved in urban water provision) have been met.	clause 10 (b)	<ul style="list-style-type: none"> <li>• Percentage of years that reserves were adequate to satisfy local water utility water requirements.</li> </ul>	



- |   |  |  |  |
|---|--|--|--|
| <p>(g) Change in economic benefits derived from water extraction and use.</p>                             | <p>clause 10 (d)<br/>clause 10 (e)</p> | <ul style="list-style-type: none"> <li>• Change in regional gross margins versus annual total extractions based on year 1 benchmarks (as represented in IQQM).</li> <li>• Movement of water to higher value crops as measured by increases in area and/or water taken by these enterprises versus lower value uses.</li> <li>• Change in unit price of water transferred.</li> <li>• Annual total volume of access licence assigned in each water year.</li> </ul> | <ul style="list-style-type: none"> <li>• There are many factors affecting economic status of a region, for example commodity prices, other sources of water (eg groundwater).</li> <li>• The Performance Indicator is intended to isolate as much as possible the effects of water availability and price on the gross margin returns at a regional level.</li> <li>• Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of this Plan provisions.</li> </ul> |
| <p>(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.</p> | <p>clause 10 (a)</p>                   | <ul style="list-style-type: none"> <li>• Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.</li> </ul>  | <ul style="list-style-type: none"> <li>• 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.</li> </ul>  |
| <p>(i) Extent to which native title rights have been met.</p>   | <p>clause 10 (b)</p>                   | <ul style="list-style-type: none"> <li>• Native title rights allowances made according to plan provisions/implementation program requirements.</li> </ul>  |  |

## Appendix 5 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.