

# Water Sharing Plan for the Upper Billabong Water Source 2003

[2003-143]



New South Wales

## Status Information

### Currency of version

Historical version for 12 October 2012 to 31 December 2013 (accessed 29 November 2024 at 10:50)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Local Land Services Act 2013 No 51](#) (not commenced — to commence on 1.1.2014)
- **Note**  
In incorporating the amendments made by the *Water Management (Minister's Plans) Order No 2 of 2004*, published in Gazette No 110 of 1.7.2004, p 5072, changes have been made to the numbering of some of the provisions to maintain appropriate numerical or alphabetical order.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 July 2013

# Water Sharing Plan for the Upper Billabong Water Source 2003



New South Wales

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# Water Sharing Plan for the Upper Billabong Water Source 2003



New South Wales

## Part 1 Introduction

### 1 Name of Plan

This Plan is the *Water Sharing Plan for the Upper Billabong Water Source 2003* (hereafter **this Plan**).

### 2 Nature and status of this Plan

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

### 3 Date of commencement

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

### 4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Murray Water Management Area known as the Upper Billabong Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

**Note—**

The Murray Water Management Area is shown on the map in Appendix 1.

**Note—**

Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones shown on the map in Schedule 2:

- (a) Billabong Creek Management Zone, which encompasses the Forest Creek subcatchment and the subcatchment of the Billabong Creek downstream of the Little Billabong Bridge, and
- (b) Billabong Headwater Management Zone, which encompasses all subcatchment areas within this water source except those identified in subclause (a).

## **5 Waters to which this Plan applies**

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
  - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
  - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude waters in any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

## **6 Interpretation**

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

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

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

### **Note—**

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



## **8 State Water Management Outcomes Plan**

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter **the SWMOP**).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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

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

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

### **10 Vision**

The vision for this Plan is for healthy water environments for the Upper Billabong Water Source.

### **11 Objectives**

The objectives of this Plan are to:

- (a) protect natural low flows (flows from the very low and A classes),
- (b) protect important rises in river levels,
- (c) protect a proportion of moderate flows (B class flows),
- (d) maintain wetland and floodplain inundation,
- (e) protect the natural wetting and drying cycles of ephemeral waterways,
- (f) provide water to meet existing and future licensed domestic and stock requirements, conditional on climatic variability, the provision of water for environmental purposes and the provision of water to meet basic landholder rights requirements,
- (g) provide for the practical sharing of water for other licensed consumptive uses, conditional on climatic variability, the provision of water for environmental purposes, the provision of water to meet basic landholder rights requirements and the provision of water to meet existing and future licensed domestic and stock requirements,
- (h) provide a share of water to preserve identified values downstream of this water source, conditional on climatic variability,
- (i) protect wetland areas with traditional native aquatic plants used by Aboriginal people for food, medicines and habitat,
- (j) respect and protect Wiradjuri heritage sites and culture through the management of

water extraction from this water source,

- (k) recognise and protect any other traditional values of water to Aboriginal people, and
- (l) contribute to the achievement of water quality to support the environmental values of this water source.

**Note—**

This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

## **12 Strategies**

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

## **13 Performance indicators**

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

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

people, and

(h) (Repealed)

**Note—**

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

## **Part 3 Basis for water sharing**

### **14 Basis for water sharing**

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

### **15 Climatic variability**

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
  - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
  - (b) sharing of the flows that occur in this water source on a daily basis.

### **16 Extraction management unit**

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Unregulated Billabong Extraction Management Unit (hereafter **this Unit**).
- (3) This Unit specified in subclause (2) is shown on the map in Appendix 2A.

**Note—**

The Unregulated Billabong Extraction Management Unit also includes the Burrumbuttock Water Source, the Lower Billabong Water Source, the Middle Billabong Water Source, the Mountain Water Source, the Ten Mile Water Source, the Upper Wangamong Water Source, the Urana Water Source and the Yarra Yarra Water Source as defined in the [Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012](#).

### **17 Flow classes**

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) for the Billabong Creek Management Zone very low flow class at or less than 1.84 megalitres per day (hereafter **ML/day**),

**Note—**

The 1.84 ML/day in subclause (a) corresponds to the estimated 80<sup>th</sup> percentile of flows in the critical month, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.

(b) for the Billabong Headwater Management Zone very low flow class at or less than 0.5 ML/day, measured at a pipe located directly down river of the site of extraction,

**Note—**

The 0.5 ML/day in subclause (b) is referred to as the cease to pump on a falling river and the commence to pump on a rising river.

(c) for the Billabong Creek Management Zone A class flows greater than 1.84 ML/day and at or less than 4.1 ML/day,

(d) for the Billabong Headwater Management Zone A class flows greater than 0.5 ML/day measured at a pipe located directly down river of the site of extraction, and at or less than 4.1 ML/day at the flow reference point,

(e) for both management zones B class flows greater than 4.1 ML/day and at or less than 7.2 ML/day, and

(f) for both management zones C class flows greater than 7.2 ML/day.

**Note—**

The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

## **18 Flow reference point**

For the purpose of this Plan, unless otherwise stated, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

## **19 Determination of flow class**

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

## **Part 4 Environmental water provisions**

### **20 Environmental water provisions**

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

### **21 Planned environmental water**

(1) Planned environmental water is identified and established as follows:

(a) In very low flows, the flow occurring in this water source minus 0.55 ML/day,

minus the very low flow access permitted under clause 61A of this plan.

**Note—**

0.55 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights.

(b) In A class flows, the flow occurring in this water source minus 2.81 ML/day.

**Note—**

2.81 ML/day is amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.

(c) In B class flows, the flow occurring in this water source minus 3.85 ML/day.

**Note—**

3.85 ML/day is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.

(d) In C class flows, the flow occurring in this water source minus 9.15 ML/day.

**Note—**

9.15 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.

(2) Planned environmental water is maintained as follows:

(a) In very low flows:

- (i) the holders of access licences, excluding access licences listed in Schedule 6, are not permitted any access,
- (ii) access licence holders listed on Schedule 6 may have limited access to very low flows in accordance with clause 61A,
- (iii) persons exercising native title and domestic and stock rights may take a combined total of up to 0.55 ML/day.

**Note—**

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

(b) In each of A class, B class and C class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 45,
- (ii) persons exercising domestic and stock and native title rights may take water, and
- (iii) if the water taken under domestic and stock and native title rights is assessed

to be exceeding 0.55 ML/day in this flow class the access to water for access licences will be reduced in accordance with clause 50 to maintain the environmental water in each flow class.

- (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

**Note—**

These rules protect the water for the environment by limiting both the water extracted over the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

**Note—**

This Plan recognises that the planned environmental water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and a contribution to improved water quality.

## **22 Extraction by water supply work**

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

## **23 Planned environmental water**

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

## **24 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 Minister may grant an access licence in a water source to which this Plan applies if the licence is subject to an adaptive environmental water condition and arises through water savings in the system made in that water source as referred to in section 8C (1) of the Act.
- (2A) The Minister may change the category or subcategory of an access licence in a water source to which this Plan applies if the licence is subject to an adaptive environmental water condition that arises through water savings as referred to in section 8D of the Act.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

## **Part 5 Basic landholder rights**

### **25 Basic landholder rights**

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

### **26 Domestic and stock rights**

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.55 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

**Note—**

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

### **27 Native title rights**

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

**Note—**

Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's [Native Title Act 1993](#).

### **28 Harvestable rights**

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

## **Part 6 Bulk access regime**

### **29 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 this water source having regard to:
  - (a) the environmental water provisions established under Part 4 of this Plan,
  - (b) the requirements for basic landholder rights identified under Part 5 of this Plan,and

(c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.

(3) The bulk access regime established in subclause (2):

(a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,

(b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,

(c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,

(d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,

(e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and

(f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

## **Part 7 Requirements for water under access licences**

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

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

**Note—**

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

### **31 Estimate of water requirements**

(1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 337 megalitres per year (hereafter **ML/yr**).

(2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved work.

(3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:



- (a) the granting, surrender, cancellation or non-renewal of access licences,
- (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act, or
- (c) the assignment of access licence share components into this water source to a total maximum of 2,145 ML/yr, following cancellation of access licence share components in other water sources, consistent with Part 11 of this Plan.

## **Part 8 Rules for granting access licences**

### **32 Rules for granting access licences**

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:

- (a) 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 access licences, or
  - (c) a specific purpose access licences for which application are provided for under the regulations in accordance with section 61 (1) (a) of the Act,
  - (d) unregulated river (Aboriginal cultural) access licences up to 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
  - (5) Subclause (4) does not apply to an application for a new access licence arising from:
    - (a) section 61 (1) (c), of the Act, where the right has been acquired by auction, tender or other open market process, or

(b) an access licence dealing.

- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) (Repealed)
- (8) Runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

## **Part 9 Limits to the availability of water**

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

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

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

#### **34 Extraction management unit**

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

#### **35 Long-term average extraction limit**

Subject to any variation under clause 36, the long-term average annual extraction limit for the Unregulated Billabong Extraction Management Unit is:

- (a) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the [Water Act 1912](#) from this water source, plus
- (b) the annual water requirements pursuant to domestic and stock rights and native title rights in this water source at the commencement of this Plan, plus
- (c) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 by floodplain harvesting activities for which floodplain harvesting access licences were later issued in this Unit, plus
- (d) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the [Water Act 1912](#) in the following water sources as defined in the [Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012](#):
- (i) Burrumbuttock Water Source,
- (ii) Lower Billabong Water Source,

- (iii) Middle Billabong Water Source,
  - (iv) Mountain Water Source,
  - (v) Ten Mile Water Source,
  - (vi) Upper Wangamong Water Source,
  - (vii) Urana Water Source, and
  - (viii) Yarra Yarra Water Source, plus
- (e) the annual water requirements pursuant to domestic and stock rights and native title rights in the following water sources as defined in the [Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012](#):
- (i) Burrumbuttock Water Source,
  - (ii) Lower Billabong Water Source,
  - (iii) Middle Billabong Water Source,
  - (iv) Mountain Water Source,
  - (v) Ten Mile Water Source,
  - (vi) Upper Wangamong Water Source,
  - (vii) Urana Water Source, and
  - (viii) Yarra Yarra Water Source.

### **36 Variation of the long-term average extraction limit**

Following the surrender under section 77 of the Act of an access licence and then the cancellation under section 77A (6) of the Act of an access licence in this water source, the Minister may vary the long-term average annual extraction limit for this Unit.

## **Division 2 Available water determinations**

### **37 Available water determinations**

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
  - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the

average extraction within this Unit over that year and the preceding 2 years,

**Note—**

A water accounting year is defined in clause 42 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), and excepting the initial available water determination made in accordance with subclause (d), the available water

determination should not exceed 100% of the total access licence share components, and

- (j) (Repealed)
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

## **Part 10 Rules for managing access licences**

### **Division 1 General**

#### **38 Rules for managing access licences**

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

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

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

#### **39 Water allocation account management**

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

#### **40 Water allocation accounts**

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

**Note—**

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

**Note—**

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

#### **41 Accrual of water allocations**

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

#### **42 Annual accounting for water extraction**

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is 100% of the access licence share component.
- (5) In any one water accounting year water taken from this water source under an access licence may not exceed the volume in the water allocation account, subject to clause 43 (1).
- (6) A water allocation account shall remain at or above zero at all times.

#### **43 Three year accounting for water extraction**

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
  - (a) the water allocations accrued under the licence in those years,
  - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71T of the Act in those years,
  - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
  - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71T of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
  - (a) 3 times the share component of the access licence,
  - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71T of the Act in those years,
  - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
  - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71T of the Act in those years.

## **Division 3 Sharing flows on a daily basis**

### **44 Sharing flows on a daily basis**

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

### **45 Total daily extraction limits**

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 0 ML/day for the very low flow class,
- (b) 2.26 ML/day for A class,
- (c) 3.3 ML/day for B class, and
- (d) 8.6 ML/day for C class.

**Note—**

These flows represent 55% of the top of A class flows, 46% of the top of B class flows and in C class flows 30% of the 30<sup>th</sup> percentile flows of annual flows.

(2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

**Note—**

The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

### **46 Initial assignment of the TDEL to categories of access licence**

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Domestic and stock access licences:
  - (i) 0.02 ML/day of A class,
  - (ii) 0.02 ML/day of B class, and
  - (iii) 0.02 ML/day of C class.
- (b) Local water utility access licences:
  - (i) 0 ML/day of A class,
  - (ii) 0 ML/day of B class, and

(iii) 0 ML/day of C class.

(c) Unregulated river access licences:

(i) 2.24 ML/day of A class,

(ii) 3.28 ML/day of B class, and

(iii) 5 ML/day of C class.

#### **47 Unassigned TDEL**

At the commencement of this Plan, unassigned TDEL in each flow class is as follows:

(a) 0 ML/day of A class,

(b) 0 ML/day of B class, and

(c) 3.58 ML/day of C class.

**Note—**

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

#### **48 Daily extraction limits for individual access licence holders**

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

#### **49 Granting of unassigned TDEL**

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
  - (a) where they are granted as part of a new access licence,
  - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
  - (c) on application of the holder of an existing access licence with share components in this water source, provided A class daily individual extraction limits are surrendered and C class IDELs are granted on a 1:1.5 basis.
- (2) Where additional IDELs are assigned to an access licence in accordance with this



clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

## **50 Adjustment to TDELS and IDELS**

- (1) Where IDELS are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.
- (2) Pursuant to section 45 (1) (b) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
  - (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and
  - (b) the IDELS of each unregulated river access licence shall then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 45 (1) (b) of the Act, if any unassigned TDEL cannot meet either:
  - (a) the IDEL requirements of applicants for new access licences for local water utilities and domestic and stock access, or
  - (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,then the TDEL for unregulated river access licences in clause 46 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELS of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELS arising from this clause will be done at intervals of no greater than 5 years.
- (6) If A class IDELS are surrendered in accordance with clause 49 (1) (c), the A class TDEL in clause 45 (1) (b), and the TDEL for unregulated river access licences in clause 46 (c) (i), will be diminished by an equivalent amount.
- (7) If A class IDELS are surrendered in accordance with clause 49 (1) (c), the unassigned TDEL in clause 47 (c) will be reduced by an amount equivalent to 1.5 times the amount of the IDEL surrendered, and the TDEL in 46 (c) (iii) will be increased by an equivalent amount.
- (8) If water that, pursuant to an access licence,:

- (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
- (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

### **51 Administrative arrangements for managing access to daily flows**

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 48,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence which is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and

- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

## **52 Infrastructure failure**

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

### **Note—**

Infrastructure is defined in the dictionary.

### **Note—**

If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

## **Part 11 Access licence dealing rules**

### **53 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 71Z of the Act.
- (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 71Z of the Act and the rules in this Part.

### **Note—**

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

### **Note—**

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

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

- (1) This clause applies to any relevant dealings under sections 71Q, 71S and 71W of the Act, and with respect to water allocation assignments within this water source under

section 71T of the Act.

- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59.

**Note—**

Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

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

Notwithstanding clause 54, applications under section 71S of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 49.

**56 Rules for change of water source**

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

**Note—**

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

- (2) Dealings under section 71R of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source under this dealing only if the access licence dealing rules in the other water source permit such a dealing, and:
  - (a) the access licence cancelled is within this Unit, or
  - (b) the access licence cancelled is within the Murrumbidgee Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71Z of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

- (6) The total volume of access licence share components in this water source may not exceed 2,145 ML/yr as a result of a dealing under this clause.
- (7) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

#### **57 Rules for conversion of access licence category**

- (1) This clause relates to dealings under section 71O of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
  - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
  - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
  - (c) the conversion is from a regulated river (general security) access licence or a regulated river (high security) access licence to an unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71Z of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

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

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

#### **59 Rules for water allocation assignments between water sources**

- (1) This clause relates to dealings under section 71T of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71T of the Act that result in water allocation assignments to or from access licences in this water source and an access licence in another water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.

- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

**Note—**

Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

**60 Rules for interstate assignment of water allocations**

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

**Part 12 Mandatory conditions**

**61 Mandatory conditions on access licences**

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions in relation 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, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
  - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
  - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
  - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
  - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
  - (g) any other conditions required to implement the provisions of this Plan.

**61A Very low flow access conditions**

- (1) Notwithstanding any cease to pump conditions established on the licence, during periods of very low flows, holders of access licences listed on Schedule 6 may

continue to access water to comply with the requirements of the Food Production (Safety) Act or the Prevention of Cruelty to Animals Act for the following purposes:

- (a) fruit washing,
  - (b) cleaning of dairy plant and equipment for the purpose of hygiene,
  - (c) poultry watering and misting, and
  - (d) cleaning of enclosures used for intensive animal production for the purposes of hygiene.
- (2) The maximum daily volume that can be extracted under subclause (1) will be the minimum required to satisfy the purposes in that subclause, will be individually assessed and specified on each access licence within 12 months of the commencement of this Plan, will not exceed 20 kilolitres per day, and will not be increased.
- (3) Upon written request by the holder of an access licence, the Minister may add a licence to Schedule 6, but only if the licence meets the purpose requirements established in subclause (1), and the purpose existed prior to 1 July 2004.
- (4) A licence will be removed from the Schedule if:
- (a) any access licence dealing results in the water being extracted from a different location,
  - (b) an alternative water supply is obtained, that satisfies the requirements of subclause (1), or
  - (c) the licence is surrendered, cancelled, or not renewed.
- (5) Notwithstanding subclauses (1) to (4), extraction of water by an approved water supply work is only permitted if there is visible flow in the river in the vicinity of the work.
- (6) An assessment of the continuing requirements for access under this clause will be undertaken before the end of the Plan, and the schedule amended or deleted at the end of the Plan, if such a review determines that this concessional access is no longer required.
- (7) The assessment made under subclause (6) will be undertaken for the Plan as a whole, and for each individual licence on the Schedule.

## **62 Unregulated river access licences**

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

#### **62A Unregulated river (Aboriginal cultural) access licences**

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

- (a) water shall only be taken by Aboriginal persons or communities for personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the IDEL of the licence specifies that water may only be taken from a runoff harvesting dam.

#### **63 Local water utility access licences**

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

#### **64 Domestic and stock access licences**

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



- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

#### **65 Runoff harvesting access licences**

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

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

All approvals for water supply works in this water source shall have mandatory conditions in relation to the following:

- (a) flow measurement devices:
  - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
  - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence,
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this

Plan, and

- (g) a flow measurement pipe must be installed, to the specifications of the Minister, down river of a water supply work in the Billabong Headwater Management Zone that is nominated by an access licence.

## **Part 13 Granting and amending water supply works approvals**

### **67 Granting and amending water supply works approvals**

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

### **68 Runoff harvesting dams and in-river dams**

- (1) If the sum of the share components of access licences nominating a water supply work that is a runoff harvesting dam or an in-river dam is reduced via:
  - (a) a dealing,
  - (b) the surrender under section 77 of the Act of an access licence and then the cancellation of that access licence under section 77A (6) of the Act,
  - (c) the amendment of the share component of the access licence by the Minister under section 68A of the Act, or
  - (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act,

the Minister may require the modification of the dam to ensure that the capability of the dam to capture water is reduced to reflect that reduction in share component.

#### **Notes—**

**1** Water supply work approvals may be granted or amended for in-river dams on third order or higher streams within all water sources and management zones to which this Plan applies, consistent with the NSW Weirs Policy, the principles of the Act, the *Fisheries Management Act 1994* and any other relevant legislation.

**2** The Minister can require the modification of the dam by amending the mandatory conditions of the relevant water supply work approval. Under section 102 (3) of the Act, the mandatory conditions of an approval may be imposed, amended, revoked or suspended by the Minister whenever it is necessary to do so in order to enable compliance with or to give effect to a relevant management plan.

- (2) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.

### **69 (Repealed)**

## **Part 14 Monitoring and reporting**

### **70 Monitoring and reporting of performance indicators**

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 43A of the Act, the Natural Resources Commission must undertake a review of this Plan prior to any decision to extend its term or to make a new plan. The review must consider the extent to which the Plan's water sharing provisions have contributed to achieving or not achieving the relevant natural resource management standards and targets in the catchment management area (as referred to in section 5 of the *Catchment Management Authorities Act 2003*).

When undertaking this review the Natural Resources Commission is required to call for public submissions. The Commission will take into consideration any submission received as well as any other relevant State-wide or regional government policies or agreements that apply to the catchment management area.

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 15 Amendment of this Plan**

### **71 Amendment of this Plan**

This Part is made in accordance with section 45 (1) (b) of the Act.

### **72 Amendment of very low flow provisions**

- (1) The Minister may, under section 45 (1) (b) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of A class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow levels being less than the levels equivalent to the 95<sup>th</sup> percentile flow of all days, or being greater than the 80<sup>th</sup> percentile flow of all days.

- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the following objectives of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) are met:
  - (a) Objective 1—to protect water levels in natural river pools and wetlands during periods of no flow, and
  - (b) Objective 2—to protect natural low flows.
- (5) In undertaking the field verification the Minister should:
  - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
  - (b) prepare a report documenting:
    - (i) the methodology adopted,
    - (ii) the hypotheses tested,
    - (iii) the field results and conclusions in terms of the degree to which the objectives in subclause (4) are met,
    - (iv) the flow levels recommended to meet the objectives, and
    - (v) the socio-economic impacts of recommended changes to the flow levels.

### **73 Review of field verification**

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 72 (5) (b) before varying this Plan in accordance with clause 72 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
  - (a) a water management committee with water sharing responsibilities for this water source,
  - (b) the relevant Catchment Management Authority, or
  - (c) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee or Catchment Management Authority referenced at subclause (2) (a).
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation

to any variation of the very low flow levels.

- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

#### **74 Other amendment of this Plan**

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELs and IDELs.

#### **75 Amendment relating to planned environmental water**

- (1) The Minister may amend this Plan to provide for the recovery of planned environmental water as follows:
  - (a) the recovery is only to apply where the Minister has cancelled an access licence held by the Minister in accordance with section 8A of the Act,
  - (b) the amount of additional water to be provided as planned environmental water is to be equivalent to the annual average extraction of water under the cancelled licence over the long-term,
  - (c) the average annual long-term availability of water for the remaining access licences that relate to the water source concerned is to be reduced by the average annual long-term extraction of water under the cancelled licence.
- (2) The Minister may amend this Plan to specify the purposes for which planned environmental water committed under section 8A of the Act is to be used.

#### **76 Amendment of Plan relating to floodplain harvesting**

The Minister may amend this Plan so as to provide for the floodplain harvesting of water by amending the waters or water sources to which this Plan applies and by consequential amendments so long as the amendments:

- (a) if the Plan has already taken into consideration floodplain harvesting extractions, do not affect the outcomes of the long-term extraction limit specified in the Plan, or
- (b) if the Plan has not already taken into consideration floodplain harvesting extractions, do not allow more water being taken pursuant to access licences for floodplain harvesting than permitted under Schedule F to the Agreement within the meaning of the *Murray-Darling Basin Act 1992*.

## **Dictionary**

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

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

**Note—**

An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

**Cap** is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

**conversion factor** refers to the adjustment factor that is to be applied to an access licence share component when it is cancelled in one water source, and reissued in a different water source and visa versa, or when the access licence is converted from one category to another. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category to another.

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

**extraction limit** is a limit on the amount of water that may be extracted from an extraction management unit.

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

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

**flow classes** are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

**flow gauging station** is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

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

**infrastructure** includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to

a known datum point, from which the flow in the river can be calculated, or

(b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

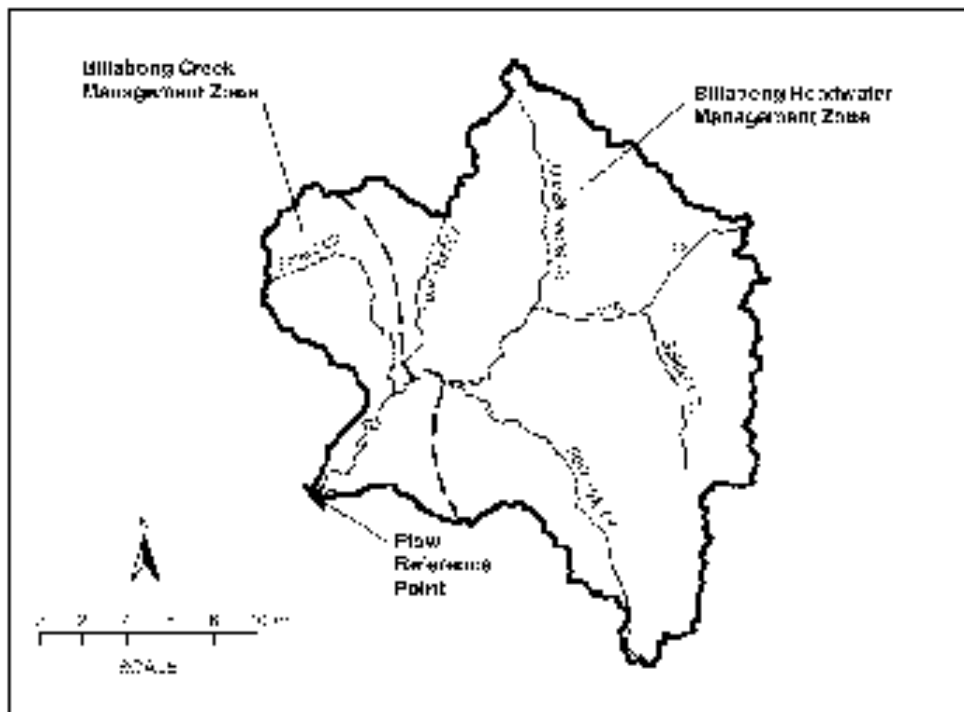
**in-river dam** is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the [Water Act 1912](#) in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

**management zone** is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

**runoff harvesting dam** means a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in the harvestable rights orders made under section 54 of the Act. For the purposes of this Plan, references to runoff harvesting dams as water supply works include any associated pumps or other works which take water from the dam. For the purpose of clarity, this definition includes dams that are also used to store water diverted into the dam from a river or other source of water.

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

## Schedule 2 Upper Billabong Water Source



## Schedule 3 Rivers in the Upper Billabong Water Source

This water source includes, without limitation:

Billabong Creek

Forest Creek

Lunts Creek

Splitters Creek

Little Billabong Creek

Four Post Creek

Vokins Creek

Four Mile Creek

## **Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan**

### **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 the target

<b>Relevant Target</b>	<b>Level of contribution</b>	<b>Comments</b>
<b>Target 1b</b> Extractions in Murray-Darling Basin's unregulated rivers limited to the Murray Darling Basin Ministerial Council (MDBMC) Cap level	FULL	<ul style="list-style-type: none"> <li>Part 9 of this Plan sets out the basis for the extraction limit for this water source.</li> <li>The extraction limit is clearly defined by an estimate of usage under MDBC Cap (which is the sum of the average use of the 6 years surveyed usage 1993–1999).</li> </ul>
<b>Target 1f</b> Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> <li>Rules set out in Part 9 of this Plan.</li> </ul>



<p><b>Target 2</b> All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes</p>	<p>HIGH</p>	<ul style="list-style-type: none"> <li>• Part 10 of this Plan puts in place total daily extraction limits to protect/restore 45% to 70% of flows.</li> <li>• While substantially improving most flows, this Plan allows for increased use of high flows.</li> <li>• 2 threatened fish species are acknowledged (Southern Pigmy Perch (listed) and Golden Perch (potential)). There are no recovery plans in place, and therefore no specific provisions in this Plan.</li> <li>• The Upper Billabong is part of an area listed as the “Lower Murray River Catchment Endangered Ecological Community” under the Fisheries Management Act, with reduced flows as a key threatening process.</li> </ul>
<p><b>Target 4a</b> Wherever the frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• A class TDEL protects 45% of low flow, which is more than a 10% improvement.</li> <li>• B class TDEL protects 54% of moderate flow, which is more than a 10% improvement.</li> <li>• C class TDEL protects 70% of high flow.</li> </ul>
<p><b>Target 4b</b> Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile</p>	<p>HIGH</p>	<ul style="list-style-type: none"> <li>• Cease to pump (CTP) level on the perennial rivers of 1.84 ML/day protects flows below the 80<sup>th</sup> percentile in critical months.</li> <li>• Local CTP on ephemeral rivers of 0.5 ML/day.</li> <li>• This Plan provides for field verification of CTP as soon as possible, and if necessary an increase in CTP between the 95<sup>th</sup> percentile and the 80<sup>th</sup> percentile for all days.</li> </ul>
<p><b>Target 5</b> Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan recognises the access licence share components and establishes TDELs for distribution to individual licences.</li> <li>• This Plan provides principles for the trading of share components and IDELs.</li> </ul>
<p><b>Target 6b</b> For surface water, a pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• Total licensed share component for the Unregulated Billabong Extraction Management Unit should not exceed 200% of the extraction limit for this Unit.</li> </ul>

**Target 7** Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy. PARTIAL

- The Government has established alternative mechanisms to address this target.
- This Plan does provide reasonable market opportunity.

**Target 8** Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers FULL

- This Plan establishes TDEs across the whole water source.

**Target 12** Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use FULL

- Cease to pump level will protect flows for domestic and stock rights.

**Target 13** The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed PARTIAL

- An Aboriginal community representative has been involved in the development of this Plan.

**Target 14** Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them PARTIAL

- This Plan recognises the cultural significance of the Upper Billabong environment to the Wiradjuri people.
- This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance.
- This Plan does provide a level of environmental protection/improvement which should assist in protecting Aboriginal values.

**Target 16a** All share components of access licences tradeable FULL

- This Plan clarifies access licence share components and establishes daily extraction limits, and provides principles for trading of these.

**Target 16c** Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water FULL

- Part 11 of this Plan enables the Minister to establish conversion factors where necessary.

<b>Target 16d</b> Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"><li>Part 11 of this Plan enables the Minister to establish conversion factors where necessary.</li></ul>
<b>Target 16e</b> Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	<ul style="list-style-type: none"><li>This Plan establishes rules for granting unassigned TDEs.</li></ul>
<b>Target 16f</b> Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none"><li>This Plan establishes management zones and precludes the trading of IDEs between these.</li></ul>
<b>Target 35</b> All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"><li>This Plan includes a generalised water quality objective.</li><li>This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.</li></ul>

## Schedule 5 (Repealed)

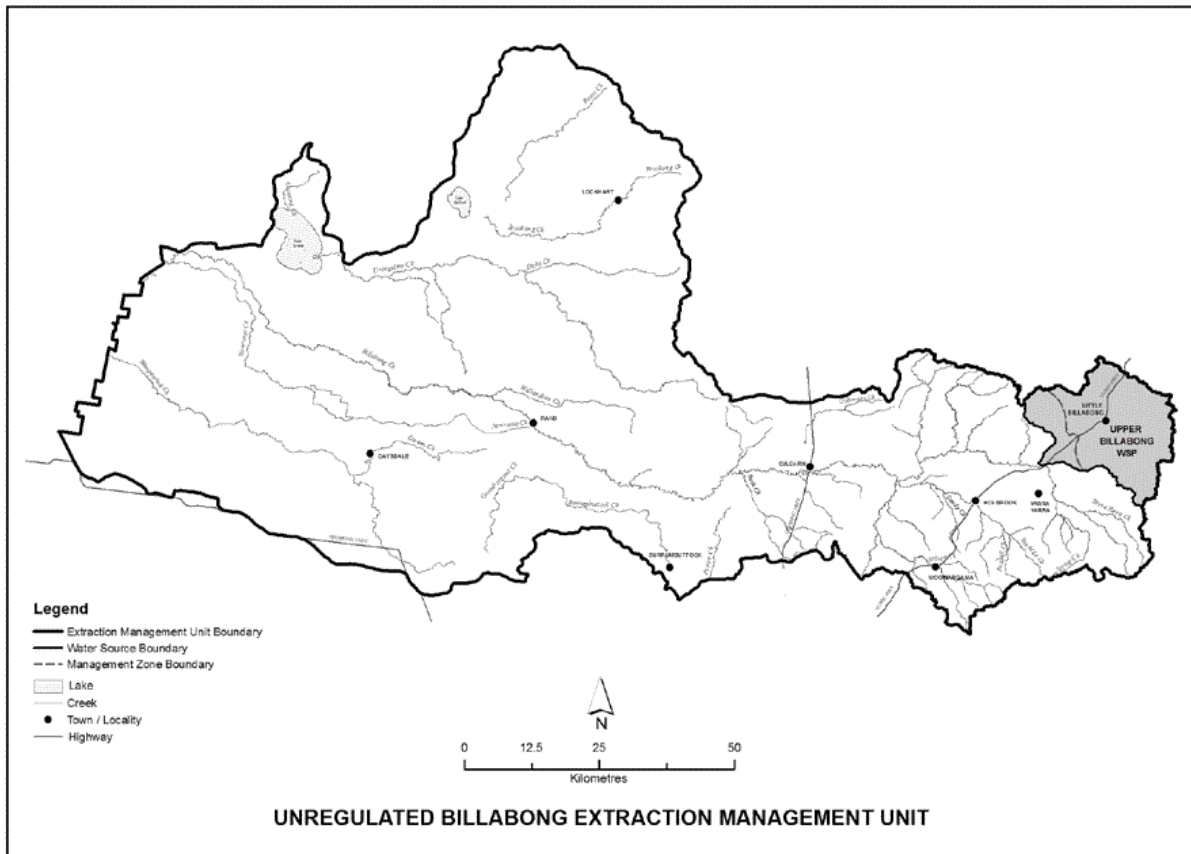
## Schedule 6 Access licences with very low flows

(no licences identified at the time of making of this amending order)



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## Appendix 2A Overview of the Map of the Unregulated Billabong Extraction Management Unit



## Appendix 3 Performance indicators

### Performance indicators for the Upper Billabong Water Sharing Plan

Performance indicator	Related objective	As measured by	Commentary
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<p>(a) Change in low flows.</p>	<p>11 (a) 11 (b) 11 (e)</p>	<ul style="list-style-type: none"> <li>• Assessment of change in flow duration characteristics, from time of Plan commencement, at identified reference points.</li> </ul>	<ul style="list-style-type: none"> <li>• River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health.</li> </ul> <p><b>Note—</b></p> <p>Not every objective is relevant to every river in NSW.</p> <ul style="list-style-type: none"> <li>• Plan will contribute to a decrease in the frequency and duration of low flows.</li> <li>• This assessment will focus on the plan’s end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.</li> <li>• Where data is limited, it is only possible to assess change from the period of plan commencement to the time the indicator is assessed.</li> <li>• There will be a high climatic influence on changes to the flow characteristics, depending on if the time period of assessment has been wet or dry.</li> </ul>
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(b) Change in moderate to high flows.	11 (b) 11 (c) 11 (d) 11 (e)	• Assessment of change in flow duration characteristics, from time of Plan commencement, at identified reference points.	<ul style="list-style-type: none"><li>• RFO 3.</li><li>• Plan will maintain or increase the frequency and duration of moderate to high flows.</li><li>• This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.</li><li>• Where data is limited, it is only possible to assess change from the period of plan commencement to the time the indicator is assessed.</li><li>• There will be a high climatic influence on changes to the flow characteristics, depending on if the time period of assessment has been wet or dry.</li></ul>
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<p>(c) Change in ecological condition of this water source and dependent ecosystems.</p>	<ul style="list-style-type: none"> <li>• Periodic assessment of identified attributes of this water source and dependent ecosystems.</li> </ul>	<ul style="list-style-type: none"> <li>• The ecological influence of the Plan is limited to providing for changes in flow regime aimed at improving the ecological condition of the water source and dependent ecosystems.</li> <li>• The focus of this performance indicator will be the effect of flow strategies.</li> <li>• Information on flow requirements of ecological systems is limited so physical or hydraulic surrogates will be used to assess the influence of the Plan. For example, the status of wetted area, depth in pools and flow velocity over riffles.</li> <li>• In addition to the environmental water provisions defined in this Plan, there are many other factors that contribute to achievement of ecological objectives. Riparian vegetation, water quality, farming techniques, soil erosion, water flow patterns and other catchment characteristics all significantly influence ecological condition. It is difficult to assess which factor is the most influential at a particular time and place.</li> <li>• Research and development into the impacts of flow on ecological condition will be incorporated into assessment of the plan where the information is available and relevant.</li> </ul>
<p>(d) Extent to which basic landholder rights requirements have been met. 11 (f)</p>	<p>Assessment of cease to pump levels in relation to basic rights requirements.</p>	<ul style="list-style-type: none"> <li>• Basic landholder rights usage figures in water sharing plans are estimated (not actual use).</li> </ul>



<p>(e) Change in economic benefits derived from water extraction and use.</p>	<p>11 (f) 11 (g)</p>	<ul style="list-style-type: none"> <li>• Number of days access provided over the time of the plan.</li> <li>• Number of new off stream storages.</li> <li>• Change in unit price of water transferred.</li> <li>• Change in gross margins.</li> </ul>	<ul style="list-style-type: none"> <li>• There are many factors affecting economic status of a region, for example commodity prices.</li> <li>• Measurement of the number of new off stream storages will indicate the adjustment to the rules and the ongoing access to water.</li> <li>• Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.</li> <li>• The data can reflect changes in crops, commodity prices, climate, water availability, economic climate and input costs.</li> </ul>
<p>(f) Extent to which native title rights requirements have been met.</p>	<p>11 (k)</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>(g) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.</p>	<p>11 (l), 11 (j), 11 (k)</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 5 years there should be relevant information collected for each water source, as a minimum requirement.</li> </ul>

## Appendix 4 (Repealed)