

Water Management (General) Regulation 2018

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New South Wales

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Water Management (General) Regulation 2018



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Contents

Part 1 Preliminary	15
1 Name of Regulation	15
2 Commencement	15
3 Definitions	15
Part 2 Access licences	18
Division 1 General	18
4 Categories of access licence	18
5 Specific purpose access licences	18
6 Priorities between different categories of access licence	19
7 Available water determinations	19
8 Service of notices imposing conditions after licence or approval is granted	20
9 Applications generally	20
10 Applications for specific purpose access licences	20
11 Matters to be included in Water Access Licence Register	21
12 Nomination of water supply works and extraction points	22
13 Dealings on default	22
14 Circumstances in which Minister may refuse to accept surrender of access licence	23
15 Cancellation of specific purpose access licences	24
16 Register of available water determinations	24
17 Water allocation accounts	25
18 Requirements for consent by co-holders of access licences	25
19 Claims for compensation	26

20 Determining value of water illegally taken	26
Division 2 Exemptions	28
21 Exemption from requirement for access licence.....	28
22 Security holder’s consent not required for certain dealings	28
23 Exemption from certain requirement concerning registration of security interests in replacement access licences	29
Part 3 Approvals	29
Division 1 General	29
24 Definition of “aquifer interference activity”	29
25 Applications generally	29
26 Advertising of applications for approvals.....	30
27 Procedure for making objection to granting of approval.....	32
28 Matters affecting consideration of applications	32
29 Circumstances in which approvals may be amended	33
30 Circumstances in which Minister may refuse to accept surrender of approval	33
31 Register of approvals.....	34
32 Security for fulfilment of obligations under approvals	34
Division 2 Exemptions	35
Subdivision 1 Preliminary	35
33 Definition	35
Subdivision 2 Exemption from requirement for water use approval	35
34 Exemption where the taking of the water is also exempt.....	35
35 Water used for particular purposes	36
36 Aquifer interference in connection with mining	36
Subdivision 3 Exemption from requirement for water supply work approval	36
37 Exemptions relating only to construction of water supply works.....	36
38 Exemptions relating only to use of water supply works.....	37

39 Exemptions relating to both construction and use of water supply works.....38

Subdivision 4 Exemption from requirement for controlled activity approval

..... 40

40 Condition applying to all exemptions under this Subdivision40

41 Controlled activities—public authorities40

42 Controlled activities—persons other than public authorities40

43 Network operators and pipeline licensees40

Subdivision 5 Exemption from operation of section 106.....41

44 Exemption from operation of section 106.....41

Subdivision 6 Exemption from requirement for flood work approval41

45 Definition.....41

46 Exemption relating to compliance with State emergency direction.....42

47 Exemption relating to work carried out by determining authorities or under development authorisations
.....42

48 Exemptions relating to ring embankments around dwelling houses or certain farm infrastructure
.....43

49 Exemptions relating to certain public authorities43

50 Exemption relating to certain earthworks.....44

Part 4 Irrigation corporations.....44

Division 1 Inclusion of land within irrigation corporation’s area of operations

.....44

51 Applications to include land within area of operations44

52 Objections to inclusion of land within area of operations45

Division 2 Exclusion of land from irrigation corporation’s area of operations

.....45

53 Applications to exclude land from area of operations.....45

54 Objections to exclusion of land from area of operations.....46

Part 5 Elections	46
Division 1 Definitions	46
55 Definitions	46
Division 2 Division of private irrigation districts into zones	47
56 Division of private irrigation districts into zones.....	47
Division 3 Eligibility to be elected	48
57 Eligibility for election as a member of a private irrigation board.....	48
58 Eligibility for election as director of a private drainage board	48
59 Eligibility for election as member of a private water trust.....	48
Division 4 Entitlement to vote	48
60 Persons entitled to vote in election of members of a private irrigation board	48
61 Persons entitled to vote in election of directors of a private drainage board	49
62 Persons entitled to vote in election of members of a private water trust	49
63 No other persons entitled to vote.....	50
64 Enrolment of representatives	50
Division 5 Returning officer	51
65 Returning officer for election of members of a private water trust or directors of a private drainage board	51
.....	51
66 Returning officer for election of members of a private irrigation board.....	51
Division 6 Rolls	51
Subdivision 1 Preparation and exhibition of preliminary roll	51
67 Preparation of preliminary roll	51
68 Exhibition of preliminary roll.....	52
Subdivision 2 Preparation of final roll	52
69 Applications for enrolment by persons not already enrolled	52
70 Objections to enrolment	52
71 Postponement of ballot not to affect final roll.....	53

Division 7 Calling of the election	54
72 Final roll must be prepared before election called	54
73 Notice of election.....	54
74 Postponement of nomination day	54
Division 8 Nominations	55
75 Eligibility for nomination.....	55
76 Nomination of candidates	55
77 Uncontested elections	55
78 Contested elections	55
Division 9 Calling of the ballot	55
79 Notice of ballot	55
80 Postponement of ballot.....	56
Division 10 The ballot	56
81 Printing of ballot-papers	56
82 Distribution of ballot-papers	57
83 Duplicate ballot-papers	57
84 Recording of votes.....	57
Division 11 The scrutiny	58
85 Receipt of ballot-papers.....	58
86 Ascertaining result of ballot.....	58
87 Poll clerks	58
88 Scrutineers	59
89 Scrutiny of votes.....	59
90 Counting of votes	60
91 Notice of result of election.....	60
Division 12 General	60
92 Election of directors of private drainage boards or members of private water trusts.....	60
93 Decisions of returning officer final	60
94 Disposal of election papers.....	61
95 Offences	61

Part 6 Private drainage boards	61
Division 1 Constitution and procedure	61
96 Quorum	61
Division 2 Finance	61
97 Rate book	61
98 Rates	62
99 Keeping of books and accounts	62
100 Banking	62
Part 7 Private water trusts	62
Division 1 Constitution and procedure	62
101 Meetings of members of a private water trust	62
102 Special general meetings	63
103 Quorum	63
104 Chairperson	63
105 Voting	63
106 Minutes.....	63
107 Special general meetings of voters	64
Division 2 Finance	64
108 Rate book	64
109 Correction of rate book.....	64
110 Payment of rates	64
111 Appeals.....	64
Division 3 Miscellaneous	64
112 Members of a private water trust’s accounts	64
Part 8 Public works	65
113 Hunter Valley flood mitigation works—statement of particulars.....	65
114 Hunter Valley flood mitigation works—statement of cost of maintenance and compensation	66
Part 9 Water supply authorities	66

Division 1 Preliminary	66
115 Definitions	66
Division 2 Areas of operations and functions	67
116 Essential Energy	67
117 Central Coast Council	67
118 Cobar Water Board	67
119 Water NSW—Fish River water supply scheme	68
120 Sydney Olympic Park Authority	69
121 Ministerial approval not required for certain works	69
Division 3 Water supply	70
Subdivision 1 Preliminary	70
122 Application.....	70
Subdivision 2 Water services	70
123 Installation and maintenance of water service by owner	70
124 Water service not to be shared.....	71
125 Fire-fighting services	71
126 Misuse and waste of water	72
127 Water to be taken through approved stoptaps	72
128 Information regarding supply	72
129 Consents may be conditional, and may be varied and revoked	72
Subdivision 3 Meters	73
130 Measurement of water supply	73
131 Property in meters	73
132 Access to meters	73
133 Care of meters.....	73
134 Discontinuance of use of meters	73
135 Testing of meters	74
136 Installation of meters.....	74
Subdivision 4 Fire hydrants	75

137 Installation of fire hydrants.....	75
138 Maintenance of fire hydrants.....	75
139 Supply of water to fire hydrants	75
140 Use of fire hydrants by authorised persons	76
Subdivision 5 Water restrictions	76
141 Restrictions on use of water during periods of shortage	76
Division 4 Sewerage	77
Subdivision 1 Preliminary	77
142 Application.....	77
Subdivision 2 Sewerage systems	77
143 Installation and maintenance of sewerage service by owner	77
144 Sewerage service not to be shared	78
145 Consents may be conditional, and may be varied and revoked	78
Subdivision 3 Discharges into sewerage systems	78
146 Definitions	78
147 Discharge policies.....	79
148 Discharges require discharge approval	79
149 Application for discharge approval	80
150 Conditions of discharge approvals.....	80
151 Duration of discharge approvals.....	81
152 Renewal of discharge approvals	82
153 Suspension or cancellation of discharge approval.....	82
Division 5 Plumbing fittings, plumbing work and plumbing permits	83
Subdivision 1 Preliminary	83
154 Application of Division	83
155 Definitions	83
Subdivision 2 Plumbing work	83
156 Permit required for plumbing work	83
157 Plumbing work to comply with specified standards.....	84

158 Plumbing work to use authorised plumbing fittings.....	84
159 Certificate of compliance following completion of plumbing work.....	84
160 Rectification of defective plumbing work.....	85
161 Exemption from certain requirements.....	85
Subdivision 3 Plumbing permits.....	86
162 Application for plumbing permit.....	86
163 Refusal of plumbing permits.....	87
164 Conditions of plumbing permits.....	87
165 Duration of plumbing permits.....	87
166 Suspension or cancellation of plumbing permits.....	87
Subdivision 4 Authorisation of plumbing fittings.....	88
167 Authorisation of plumbing fittings.....	88
Division 6 Special areas of operation of Essential Energy.....	88
Subdivision 1 Preliminary.....	88
168 Definitions.....	88
Subdivision 2 Special areas generally.....	89
169 Livestock farming.....	89
170 Sewage disposal.....	90
171 Notification of waterborne infectious diseases.....	90
172 Slaughtering.....	90
173 Stock control.....	90
Subdivision 3 Rural portions of special areas.....	91
174 Application of Subdivision.....	91
175 Destruction or removal of timber.....	91
176 Waste and pollutants.....	91
177 Erection and alteration of buildings and structures.....	91
178 Pesticides and pest control.....	91
Subdivision 4 Restricted portions of special areas.....	92
179 Application of Subdivision.....	92

180 Entry	92
181 Fishing	92
182 Fees and charges.....	92
183 Prohibited conduct.....	92
184 Gates not to be opened	93
185 Camping and picnicking	93
186 Fires.....	94
Subdivision 5 Miscellaneous	94
187 Consents may be conditional, and may be varied and revoked	94
188 Investigation of suspected contraventions	94
189 Notice by public agencies.....	95
Division 7 Finance generally	95
Subdivision 1 Preliminary	95
190 Application.....	95
191 Definitions	95
Subdivision 2 Service charges and other charges	96
192 Fees and charges other than service charges	96
193 Classification of land	96
194 Basis of levying service charges.....	96
195 Method of levying service charge on dwelling under company title	97
196 Determination of service charges.....	97
197 Approval of service charge determinations	97
198 Strategic business plans.....	98
199 Integrated water cycle management strategy	98
200 Payment of service charges and other charges.....	98
201 Payment by instalments	99
202 General power to defer or waive payment of service charges or other charges or fees.....	99
203 Adjustment of service charge	99
204 Objection to levying of service charge	100
205 Objection to adjustment of service charge	100
206 Objection to refusal to adjust service charge	100

207 Objections generally	101
Subdivision 3 Drainage areas	101
208 Notice of drainage area	101
Subdivision 4 Miscellaneous	102
209 Cutting off or restricting supply	102
210 Service of notices	103
211 Recording of service charge	104
Division 8 Concessions for eligible pensioners and others	104
Subdivision 1 Preliminary	104
212 Application.....	104
213 Definitions	104
Subdivision 2 Reductions for pensioners.....	106
214 When entitlement arises	106
215 Reduction of total charges.....	106
216 Reduction of instalments for charges	106
217 Application by person who becomes eligible pensioner after charge is levied	106
Subdivision 3 Other reductions	106
218 Extension of reduction to avoid hardship	106
Subdivision 4 General provisions concerning reductions	107
219 Making of application	107
220 Refund of certain overpayments	108
221 Exemption from liability.....	108
222 Recovery of amount of reduction	108
Subdivision 5 Water supply authorities that are also local councils	108
223 Central Coast Council	108
Division 9 Miscellaneous.....	108
224 Supply of plans	108
225 Information to accompany applications under section 305	109

226 Development that may be subject to section 306 requirements.....	109
227 Members of Cobar Water Board.....	109
Part 10 Metering equipment	109
Division 1 Preliminary	109
228 Interpretation	109
Division 2 Metering equipment conditions	110
229 Mandatory metering equipment conditions.....	110
230 Temporary exemptions from mandatory metering equipment condition.....	110
231 Permanent exemptions from mandatory metering equipment condition	115
232 Inactive water supply works	117
233 Exemptions by Minister	117
234 Existing metering conditions	117
Division 3 Metering equipment standards	118
235 Mandatory requirements for metering equipment.....	118
236 Duly qualified persons	118
237 Obligations of duly qualified persons.....	120
238 Metering records	121
Division 4 Defences for metering offences	122
239 Commencement of Division.....	122
240 Definitions	122
241 Reporting faulty metering equipment	122
242 Records to be kept when metering equipment faulty.....	122
243 Repairs to faulty metering equipment.....	123
Division 5 Miscellaneous	124
244 Mandatory condition relating to other reporting.....	124
245 Mandatory conditions imposed on entitlements under former 1912 Act.....	124
246 Review of metering equipment regulations	124
247 Service of documents	125
Part 11 Miscellaneous	125

248 Notification of damage arising in the course of plumbing work.....	125
249 Management plans may contain savings and transitional provisions	125
250 Recording water taken where metering equipment not required to comply with mandatory conditions	125
251 Management plans—water sharing provisions	126
252 Land declared to be a floodplain	127
253 Exemptions relating to taking over works—Anabranch Water	128
254 Fees and charges.....	128
255 Liability for rates and charges levied after transfer of estate or interest.....	128
256 Electronic lodgment of certain applications, claims and objections	128
257 Transformation of water entitlements.....	129
258 Metering equipment installed by Ministerial Corporation	129
259 Repeal and savings.....	130
Schedule 1 Excluded works	130
Schedule 2 Stream order of a watercourse	131
Schedule 3 Categories and subcategories of licences	132
Schedule 4 Exemptions	134
Schedule 5 Forms	144
Schedule 6 Floodplain	146
Schedule 7 Penalty notice offences	147
Schedule 8 Metering equipment	149
Schedule 9 Water sources requiring metering equipment for small water supply works	154

Water Management (General) Regulation 2018



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Water Management (General) Regulation 2018*.

2 Commencement

This Regulation commences on 24 August 2018 and is required to be published on the NSW legislation website.

Note—

This Regulation repeals and replaces the *Water Management (General) Regulation 2011* which would otherwise be repealed on 1 September 2018 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

converted floodplain management plan means a floodplain management plan adopted under section 166A of the former 1912 Act that, by operation of clause 13 of Schedule 9 to the Act, is taken to be a Minister's plan made under the Act in relation to floodplain management.

Department means the Department of Industry.

Department's website means a publicly available website maintained by the Department.

domestic consumption has the same meaning as it has in section 52 of the Act.

entitlement has the same meaning as it has in Schedule 10 to the Act and includes any arrangement that, immediately before 1 July 2004, was in force between a local council and the Ministerial Corporation.

excluded work means a work referred to in Schedule 1.

exempt monitoring bore means a monitoring bore constructed in accordance with the *Minimum Construction Requirements for Water Bores in Australia* that is:

- (a) required by an order, or approved voluntary management proposal, under Part 3 of the *Contaminated Land Management Act 1997*, or
- (b) required by the conditions of a development consent under Part 4, of an approved project under Part 3A or of an approval under Division 5.2 of Part 5, of the *Environmental Planning and Assessment Act 1979*, or required or undertaken as a result of an environmental assessment under Part 5 of that Act, or
- (c) required by a condition of an environment protection licence under the *Protection of the Environment Operations Act 1997*, or
- (d) required under the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*, or
- (e) constructed and operated only by the Ministerial Corporation.

hydroline spatial data means the *Water Management (General) Regulation 2018 hydroline spatial data* published by the Department on the Department's website.

Minimum Construction Requirements for Water Bores in Australia means the document entitled *Minimum Construction Requirements for Water Bores in Australia* published by the Land and Water Biodiversity Committee, as in force from time to time.

minor stream means:

- (a) any stream or part of a stream:
 - (i) the location of which is specified in the hydroline spatial data, and
 - (ii) that is identified as a first or second order stream, or part of such a stream, as determined in accordance with the system set out in Schedule 2, and
 - (iii) that does not maintain a permanent flow of water, being a visible flow that occurs on a continuous basis, or would so occur if there were no artificial abstractions of water or obstruction of flows upstream, and
 - (iv) that does not at any time carry flows emanating from a third or higher order stream as determined in accordance with the system set out in Schedule 2, or
- (b) any stream or part of a stream the location of which is not specified in the hydroline spatial data.

For the purposes of paragraphs (a) (i) and (b), a stream is specified in the hydroline spatial data if it is identified as a watercourse (however described) in accordance with the legend or terms of that data.

stock watering has the same meaning as in section 52 of the Act.

the Act means the [Water Management Act 2000](#).

the former 1912 Act means the [Water Act 1912](#).

water reticulation work means a work (such as a water pipe or irrigation channel) that is constructed or used for the purpose of conveying water to the point at which it is to be used (including a reticulated system of such works and all associated pipes, sluices, valves and equipment), but does not include:

- (a) any work that receives water from a water supply work under the control or management of the Sydney Water Corporation, the Hunter Water Corporation or a local water utility, or
- (b) any work that is also a flood work.

water year means a year commencing 1 July.

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) For the purposes of paragraph (c) of the definition of **river** in the Dictionary to the Act, the following are declared to be a river:
 - (a) any watercourse, whether perennial or intermittent, comprising an artificial channel that has changed the course of the watercourse,
 - (b) any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows,
 - (c) Eagle Creek Cutting, from its offtake with the Murray River adjacent to Lot 20, DP 1135384, Easting: 240323, Northing: 6052845, UTM Zone 55 GDA, Parish of Barham, County of Wakool, to its confluence with the Eagle Creek adjacent to Lot 2, DP 218060, Easting: 241231, Northing: 6053511, UTM Zone 55 GDA, Parish of Barham, County of Wakool,
 - (d) Waddy Creek Cutting, from its offtake with the Murray River in Lot 1, DP 868793, Easting: 750976, Northing: 6080045, UTM Zone 54 GDA, Parish of Willakool, County of Wakool, to its confluence with the Waddy Creek in Lot 2, DP 868793, Easting: 751915, Northing: 6081546, UTM Zone 54 GDA, Parish of Mellool, County of Wakool.
- (3) Notes included in this Regulation (other than in Schedule 5) do not form part of this Regulation.

Part 2 Access licences

Division 1 General

4 Categories of access licence

- (1) For the purposes of section 57 (1) (l) of the Act, each of the following categories of access licence are prescribed:
 - (a) Murrumbidgee Irrigation (conveyance) access licence,
 - (b) Coleambally Irrigation (conveyance) access licence,
 - (c) domestic and stock (conveyance) access licence,
 - (d) unregulated river (high flow) access licence,
 - (e) regulated river (general security—A class) access licence,
 - (f) regulated river (general security—B class) access licence,
 - (g) aquifer (general security) access licence,
 - (h) unregulated river (special additional high flow) access licence,
 - (i) salinity and water table management access licence,
 - (j) aquifer (high security) access licence,
 - (k) unregulated river (regulated supply—local water utility) access licence,
 - (l) unregulated river (regulated supply) access licence,
 - (m) unregulated river (A class) access licence,
 - (n) unregulated river (B class) access licence,
 - (o) unregulated river (C class) access licence,
 - (p) major utility (Barnard) access licence,
 - (q) Penrith Lakes Scheme (initial fill of the lakes that form part of the Scheme) access licence.
- (2) For the purposes of section 57 (2) of the Act, each subcategory specified in Column 2 of Schedule 3 in relation to a category of access licence referred to in Column 1 of that Schedule is a prescribed subcategory of the category so referred to.

5 Specific purpose access licences

- (1) For the purposes of paragraph (e) of the definition of ***specific purpose access***

licence in the Dictionary to the Act, each of the following types of access licence is declared to be a specific purpose access licence:

- (a) domestic and stock (conveyance) access licence,
- (b) salinity and water table management access licence,
- (c) unregulated river (regulated supply—local water utility) access licence,
- (d) unregulated river (regulated supply) access licence,
- (e) major utility (Barnard) access licence,
- (f) Penrith Lakes Scheme (initial fill of the lakes that form part of the Scheme) access licence.

(2) A supplementary water (Lowbidgee) access licence is exempted from paragraph (d) of the definition of **specific purpose access licence**.

6 Priorities between different categories of access licence

(1) The priorities to be observed in relation to the access licences referred to in section 58 (1) (c) of the Act are that:

- (a) regulated river (conveyance) access licences, Murrumbidgee Irrigation (conveyance) access licences and Coleambally Irrigation (conveyance) access licences:
 - (i) have equal priority with each other, and
 - (ii) have priority over any other access licences referred to in section 58 (1) (c) of the Act, and
- (b) all other access licences referred to in section 58 (1) (c) of the Act have equal priority with each other.

(2) Any subcategory of access licence has equal priority with the access licence of which it is a subcategory and with any other subcategory of that licence.

7 Available water determinations

(1) For the purposes of section 59 (2) of the Act, an available water determination referred to in section 59 (1) (a) of the Act is to be published on the Department's website.

(2) An available water determination so published must be retained on the Department's website until the end of the water year to which it relates.

8 Service of notices imposing conditions after licence or approval is granted

- (1) A written notice under section 67 or 102 of the Act may be served on or given to the holder of an access licence or an approval by sending it electronically to an email address provided by the holder as the holder's address for the giving or service of documents of that kind.
- (2) The giving or service of a notice in the manner provided for in subclause (1) is effected when the notice is sent to that email address.

9 Applications generally

- (1) An application under Part 2 of Chapter 3 of the Act:
 - (a) must be in the approved form, and
 - (b) must be signed or otherwise authenticated by each applicant, and
 - (c) must be accompanied by, or make provision for the payment of, any fee payable under section 114 of the Act in relation to the application, and
 - (d) must be lodged at, or sent by post to, an office of the Department or lodged electronically as provided by clause 256.

Note—

See section 80 of the [Interpretation Act 1987](#) with respect to compliance with approved forms.

- (2) This clause does not apply to an application for the recording of any matter in the Access Register under section 71A of the Act.

10 Applications for specific purpose access licences

- (1) For the purposes of section 61 (1) (a) of the Act, an application for the following categories and subcategories of specific purpose access licence may be made:
 - (a) a local water utility access licence (subcategory "domestic and commercial"), for the purpose of domestic consumption and commercial activities,
 - (b) a domestic and stock access licence (subcategory "domestic"), for the purpose of domestic consumption,
 - (c) a domestic and stock access licence (other than subcategory "domestic"), but only if:
 - (i) the application is made by a landholder who became the landholder not more than 12 months before making the application, and
 - (ii) immediately before the applicant became the landholder, a domestic and stock access licence was in force in relation to the land (the **former licence**),

and

- (iii) the domestic and stock access licence is for the same subcategory (if any) as the former licence, and
 - (iv) the share component does not exceed the share component (if any) of the former licence, and
 - (v) the former licence has been, or should be, cancelled because it can no longer be used by the person who was formerly the landholder,
- (d) an unregulated river access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
 - (e) a regulated river (high security) access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
 - (f) an aquifer access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
 - (g) any category of specific purpose access licence (subcategory “Aboriginal cultural”), for Aboriginal cultural purposes,
 - (h) a major utility (Barnard) access licence,
 - (i) a Penrith Lakes Scheme (initial fill of the lakes that form part of the Scheme) access licence.
- (2) In this clause:

commercial activities means associated commercial activities within the meaning of section 66 (3A) of the Act.

11 Matters to be included in Water Access Licence Register

- (1) For the purposes of section 71A (1) (h) of the Act, the matters to be recorded in the General Division of the Access Register include any memorandum of terms and conditions:
 - (a) that is lodged with the Minister by the holder, or prospective holder, of a security interest, and
 - (b) that is, or is intended to be, adopted by or incorporated in an instrument evidencing the existence of a security interest, as referred to in section 71D (1) (a) of the Act.
- (2) For the purposes of section 71A (2) (b) of the Act, the matters to be recorded in the

Assignment Division of the Access Register include any agreement in the approved form that is signed by all the holders of an access licence and is submitted to the Minister, being an agreement that the person or persons specified in the agreement may, on behalf of the holders of the access licence, apply for an assignment dealing.

12 Nomination of water supply works and extraction points

- (1) The only circumstance in which a nomination under section 71W (1) (b) of the Act is permitted is if the Minister is satisfied:
 - (a) that the water supply work or extraction point the subject of the nomination is in a water source (the **other water source**) that is connected to a water source specified in the access licence (the **specified water source**), and
 - (b) the water credited to the access licence that may be taken by means of the water supply work or from the extraction point will be so taken from the specified water source indirectly, as an unavoidable result of water being taken from the other water source by means of the work or from the extraction point.
- (2) A nomination of a water supply work required to be notified to the Minister under section 71W (3) (a) of the Act must be notified within 28 days after the nomination is made.
- (3) A withdrawal of a nomination required to be notified to the Minister under section 71W (3) (b) of the Act must be notified within 28 days after the nomination is withdrawn.
- (4) A notification referred to in subclause (2) or (3) must be in writing and may be given by email or other electronic communication.
- (5) For the purposes of paragraph (j) of the definition of **general dealing** in the Dictionary to the Act, the amendment of an access licence to nominate a specified extraction point as a means by or from which water credited to the licence may be taken, as referred to in section 71W of the Act, is prescribed as a general dealing in an access licence.

13 Dealings on default

A notice served on the holder or co-holder of an access licence, a person having a registered caveat over an access licence or holding and the Minister in relation to the transfer of the licence or holding as a consequence of a default in the payment of a debt or performance of some other obligation under a contract or other legally enforceable arrangement secured by a security interest:

- (a) must indicate:
 - (i) that it is a notice for the purposes of section 71X of the Act, and
 - (ii) that the holder or co-holder of the licence is in default under the contract or

arrangement, as specified in the notice, and

(iii) that steps must be taken by the holder or co-holder of the licence to rectify the default, as specified in the notice, and

(iv) that, if those steps are not taken within 30 days after service of the notice, the access licence may be transferred pursuant to that section, and

(b) must be served on a person in a manner in which a document may be served on a person under section 170 of the [Conveyancing Act 1919](#).

14 Circumstances in which Minister may refuse to accept surrender of access licence

For the purposes of section 77 (2B) of the Act, the Minister may refuse to accept the surrender of an access licence if:

(a) the licence is subject to a registered security interest or a registered caveat, or

(b) the holder of the access licence has failed to make due payment with respect to any fees, charges or civil penalties that are payable in respect of the licence, or

(c) the licence is one for which a water supply work or extraction point is nominated under section 71W of the Act and the Minister is satisfied:

(i) that the continued taking of water by means of the work or from the extraction point is not intended, and

(ii) that water is still being taken, or is still capable of being taken, by means of the work or from the extraction point, and

(iii) that work that needs to be done to stop the taking of water by means of the work or from the extraction point has not been completed or satisfactorily completed, or

(d) the licence is one for which a water supply work or extraction point is nominated under section 71W of the Act and the Minister is satisfied:

(i) that the continued taking of water by means of the work or from the extraction point is intended, and

(ii) that water is still being taken, or is still capable of being taken, by means of the work or from the extraction point, and

(iii) if the licence is surrendered, the continued taking of water by means of the work or from the extraction point will not be authorised under the Act (for example, authorised under another access licence or in exercise of a harvestable right or domestic and stock right or because the Minister agrees to hold the surrendered licence until the taking of water by means of the work or from the extraction point ceases).

15 Cancellation of specific purpose access licences

For the purposes of section 77A (3) of the Act, the following criteria are prescribed as criteria that the Minister must consider when determining whether the purpose for which a specific purpose access licence was granted no longer exists:

- (a) in the case of an access licence for the supply of water to a location in relation to any activity, whether that activity is still continued at that location or still requires a supply of water,
- (b) in the case of an access licence for the supply of water to a town or community or to some other location for domestic purposes, whether anyone still resides in that town or community or at that location,
- (c) in the case of an access licence for the supply of water to a location for stock purposes, whether there is still any stock at that location,
- (d) in the case of an access licence for the supply of water for any purpose from any water source, whether the water previously supplied for that purpose from that water source is now supplied from some other water source.

16 Register of available water determinations

- (1) The following particulars must be recorded in the register of available water determinations kept under section 84 of the Act in relation to each available water determination:
 - (a) the terms of the determination,
 - (b) the date on which it was made,
 - (c) the water source or sources (or the parts of the water source or sources) to which it applies,
 - (d) in the case of a determination referred to in section 59 (1) (a) of the Act, the categories or subcategories of access licence to which it applies,
 - (e) in the case of a determination referred to in section 59 (1) (b) of the Act, the individual access licences to which it applies.
- (2) For the purposes of section 84 (2) of the Act, the register of available water determinations may be kept in written or in electronic form.
- (3) For the purposes of section 84 (3) of the Act, the register of available water determinations is to be made available for public inspection at each office of the Department.
- (4) The Secretary may also make the register of available water determinations, or parts of the register, available on the Department's website.

17 Water allocation accounts

- (1) Water allocations are to be debited from an access licence's water allocation account:
 - (a) except as provided by paragraph (b), whenever water is taken by means of any of the access licence's nominated water supply works, or
 - (b) if the relevant water sharing plan so provides, whenever water is ordered in relation to any of the access licence's nominated water supply works.
- (2) If a water supply work is nominated in relation to 2 or more access licences, water allocations taken by means of, or ordered in relation to, the work are to be debited from the water allocation accounts for those access licences:
 - (a) to the extent to which the relevant water sharing provisions of a management plan establish priorities in that regard, in accordance with the priorities so established, and
 - (b) to the extent to which the relevant water sharing provisions of a management plan do not establish priorities in that regard:
 - (i) subject to subparagraph (ii), as nominated by the holder of the access licences concerned or, if the access licences are held by different people, as nominated jointly by the holders, or
 - (ii) if no such nomination is made or if such a nomination is incapable of being implemented, as determined by the Minister.
- (3) Water allocations remaining in a water allocation account at the end of a water year may be carried over to the next water year, but only to the extent that the relevant water management plan permits.
- (4) Subclause (3) is not limited or otherwise affected by any order in force under section 49A (1) of the Act.
- (5) A water allocation account may be kept in the form of 2 or more sub-accounts.

18 Requirements for consent by co-holders of access licences

An appointment, or a revocation of appointment, of a nominee of a co-holder of an access licence under section 72A (2) of the Act:

- (a) must be in the approved form, and
- (b) must be signed by the co-holder making or revoking the appointment, and
- (c) must be lodged at, or sent by post to an office of the Department.

19 Claims for compensation

A claim under section 87 of the Act:

- (a) must be in the approved form, and
- (b) must be signed or otherwise authenticated by the claimant, and
- (c) must be lodged at, or sent by post to, an office of the Department or lodged electronically as provided by clause 256.

Note—

See section 80 of the [Interpretation Act 1987](#) with respect to compliance with approved forms.

20 Determining value of water illegally taken

- (1) For the purposes of section 60G (1) (a) of the Act, the value of water illegally taken from a water source is to be determined in accordance with this clause.
- (2) **No trading prices published for any period** If no trading price data has been published for any period for the water source, the value of water illegally taken is to be determined by multiplying the relevant published water access (entitlement) charge for the valley in which the water source is located for the water year in which the illegal taking of water began (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).
- (3) **Trading prices published for month or some or all months in which water illegally taken** If trading price data has been published for the water source for the month or some or all of the months in which water was illegally taken, the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for the month or months in which water was illegally taken (expressed in dollars per megalitre) and multiplying that weighted average by the volume of water illegally taken (expressed in megalitres).
- (4) **Trading prices published for year in which illegal taking of water began and illegal taking of water began in previous water year** If the illegal taking of water began in a water year previous to the current water year and trading price data has been published for the water source for that previous water year but not for the month or months in which water was illegally taken, the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for that previous water year (expressed in dollars per megalitre) and multiplying it by the volume of water illegally taken (expressed in megalitres).
- (5) **Trading prices published but not for month or months in which water illegally taken and illegal taking of water began in current water year** If the illegal taking of water began in the current water year and no trading price data has been published for the water source for the month or months in which water was illegally taken (whether or not

trading price data has been published for the water source for any other month in the current year) and:

- (a) trading price data has been published for the water year previous to the current water year—the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for that previous water year (expressed in dollars per megalitre) and multiplying that weighted average by the volume of water illegally taken (expressed in megalitres), or
- (b) trading price data has not been published for the water year previous to the current water year—the value of water illegally taken is to be determined by multiplying the published water access (entitlement) charge for the valley in which the water source is located for that previous water year (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).

(6) **No trading prices published for year in which illegal taking of water began and illegal taking of water began in previous water year** If the illegal taking of water began in a water year previous to the current water year and no trading price data has been published for the water source for any month during that previous water year, the value of water illegally taken is to be determined by multiplying the published water access (entitlement) charge for the valley in which the water source is located for that previous water year (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).

(7) In this clause:

illegally taken means taken in contravention of Division 1A of Part 2 of the Act.

published means published on the Department's website.

trading price data means data about assignments of water allocations under section 71T of the Act occurring in any month, but not any other dealings.

water access (entitlement) charge is the annual charge per unit of entitlement that would be payable under the 1-part tariff for an unregulated river access licence or an aquifer access licence, as imposed by the Minister pursuant to section 114 of the Act.

Note 1—

This definition does not apply to regulated river access licences because regulated rivers have trading prices.

Note 2—

Details relating to the 1-part tariff for unregulated river access licences and aquifer access licences are published on the Department's website.

Division 2 Exemptions

21 Exemption from requirement for access licence

- (1) A person is exempt from section 60A (1) and (2) of the Act in relation to the taking of water from a water source if the person:
 - (a) is specified in any provision of Part 1 of Schedule 4, and
 - (b) takes water for any of the purposes, and in the circumstances, specified in that provision.
- (2) A person exempted under this clause is also exempted from any mandatory conditions relating to access licences that are imposed on a water supply work approval.
- (3) An exemption conferred by this clause that requires a watering program to be approved by the Minister is subject to the condition that any person claiming the exemption must, if required to do so by an authorised officer, produce the approved watering program immediately or within the period, and at the place, specified by the officer.
- (4) An exemption conferred by subclause (1) with respect to approved watering for basic human water needs (within the meaning of clause 14 of Schedule 4 (Taking water for basic human water needs)) ceases to apply 4 months after the date on which the relevant approval was granted by the Minister or such later date as the Minister may approve of in writing.
- (5) An exemption conferred by this clause with respect to the taking of water for the purposes and in the circumstances specified in clause 17 of Schedule 4 (Emergency safety measures) is subject to the condition that the person claiming the exemption must comply with all applicable requirements (if any) of the Minister:
 - (a) that are published in the Gazette, or notified in writing to the person, for the purposes of this subclause, and
 - (b) that are for the purposes of implementing the water management principles in relation to the taking of water the subject of the exemption.

22 Security holder's consent not required for certain dealings

The following are exempt from the requirements of section 71L (1) (c) of the Act:

- (a) the grant of a single access licence arising from an application under section 71U of the Act for the grant of an access licence to give effect to the transfer into the State of an interstate equivalent of an access licence together with an application under section 71P of the Act for consolidation of that licence with another licence,

- (b) an increase in the share or extraction component of an access licence in connection with the assignment of rights under section 71Q of the Act.

23 Exemption from certain requirement concerning registration of security interests in replacement access licences

- (1) A person claiming a security interest in a replacement access licence (within the meaning of Schedule 10 to the Act) is exempt from the requirement under clause 19 (5) (d) of Schedule 10 to the Act that the person lodge written notice with the Secretary as referred to in that paragraph.
- (2) The person is exempt from that requirement only if the licence holder requests, by notice in writing to the Secretary, that the security interest be registered in the Access Register.

Part 3 Approvals

Division 1 General

24 Definition of “aquifer interference activity”

The following activities are prescribed for the purposes of paragraph (d) of the definition of ***aquifer interference activity*** in the Dictionary to the Act:

- (a) the extraction of sand,
- (b) the extraction of road base material.

25 Applications generally

- (1) An application under Part 3 of Chapter 3 of the Act:
 - (a) must be in the approved form, and
 - (b) must, if required by the Minister, include or be accompanied by an assessment of the likely impact of the water use, work or activity concerned, and
 - (c) must be signed or otherwise authenticated by each applicant, and
 - (d) if the application is an application for a controlled activity approval (or the extension of such an approval), must be signed by the owner of the land on which the activity is to take place, and
 - (e) must be accompanied by, or make provision for the payment of, the fee payable under section 114 of the Act in relation to the application, and
 - (f) must be lodged at, or sent by post to, an office of the Department or lodged electronically as provided by clause 256.

Note—

See section 80 of the *Interpretation Act 1987* with respect to compliance with approved forms.

- (2) An assessment referred to in subclause (1) (b) must be prepared in accordance with the requirements (if any) issued by the Minister.

26 Advertising of applications for approvals

- (1) The following classes of applications are to be advertised, as referred to in section 92 (7) of the Act:
- (a) applications for water supply work approvals for:
 - (i) works for the taking of water from a river, or
 - (ii) bores for the taking of water, other than bores used solely for taking water in accordance with a person's basic landholder rights, or
 - (iii) works (such as weirs) that have the effect of impounding water in a water source, or
 - (iv) works (such as tanks and dams) that are constructed or used for the purpose of capturing rainwater run-off,
 - (b) applications for water use approvals for irrigation,
 - (c) applications whose advertising is required by any relevant management plan,
 - (d) applications for flood work approvals for flood works that the Minister has assessed under this clause to be non-complying flood works,
 - (e) applications for flood work approvals for flood works that are situated in or on a floodplain for which there is no management plan (including a converted floodplain management plan) in force with respect to that floodplain.
- (2) If an application is made for a flood work approval, the Minister is to assess whether the flood work to which the application relates is a non-complying flood work.
- (3) A flood work to which an application relates is to be assessed to be a non-complying flood work only if:
- (a) the work is situated, or proposed to be constructed, in an area to which a converted floodplain management plan applies, and
 - (b) the Minister is not satisfied that the work complies with the converted floodplain management plan.
- (4) An application referred to in subclause (1) (a) does not have to be advertised (unless required to be advertised by a management plan referred to in subclause (1) (c)) if the

water supply work concerned is to be used:

- (a) for a period of not more than 6 months, and
- (b) for one of the following purposes:
 - (i) road construction or road maintenance by a roads authority (within the meaning of the *Roads Act 1993*),
 - (ii) drought relief,
 - (iii) dust suppression,
 - (iv) prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*,
 - (v) any environmental purpose authorised by a plan approved by the Minister under section 8E (7) of the Act,
 - (vi) hydrostatic testing of gas pipelines.
- (5) An application referred to in subclause (1) (a) (i) does not have to be advertised (unless required to be advertised by a management plan referred to in subclause (1) (c)) if the water supply work concerned:
 - (a) is to be used solely for taking or using water pursuant to a replacement access licence, and
 - (b) was in existence at the time the relevant replacement access licence came into force.
- (6) An application referred to in subclause (1) (b) does not have to be advertised (unless required to be advertised by a management plan referred to in subclause (1) (c)) if the land to which the application relates is land in respect of which a replacement access licence.
- (6A) An application referred to in subclause (1) does not have to be advertised if the water supply work concerned is to be used for the taking of water in relation to floodplain water usage by a landholder that is to be converted into a replacement floodplain harvesting access licence (within the meaning of section 57A of the Act), but only if that licence has not been granted to the landholder.
- (7) An application for an approval must be advertised by the Minister by means of a notice published:
 - (a) in a newspaper circulating throughout the area the application affects, or as many newspapers circulating within the various parts of that area as are necessary to ensure that it reaches all parts of that area, and

(b) in a newspaper circulating among such Aboriginal communities as, in the opinion of the Minister, could be affected by the granting of such an approval, and

(c) on the Department's website.

(8) The notice must contain the following information:

(a) the name of the applicant,

(b) the type of approval to which the application relates,

(c) particulars indicating the location to which the application relates,

(d) in the case of a water supply work approval, the capacity of the work and the water source and stream from which the work is proposed to take water,

(e) in the case of a water use approval, the purpose for which water is to be used under the approval,

(f) the form in which any objection against the application should be made for the purposes of section 93 of the Act,

(g) the address to which, and the time by which, any such objection should be made,

(h) the name and contact details for the relevant departmental officer.

(9) In this clause:

replacement access licence means a replacement access licence arising under Division 9, 11, 12 or 13 of Part 2 of Schedule 4 to the *Water Management (General) Regulation 2011* as in force pursuant to clause 259 (2).

27 Procedure for making objection to granting of approval

For the purposes of section 93 (1) of the Act, an objection to the granting of an approval:

(a) must be in writing or in electronic form, and

(b) must be signed or otherwise authenticated by the objector, and

(c) must contain the name and address of the objector, and

(d) must, within 28 days after the notice was first published, be lodged at, or sent by post to, the address specified in the notice referred to in clause 26 (8) (g) or, if in electronic form, lodged electronically as provided by clause 256, and

(e) must specify the grounds of the objection.

28 Matters affecting consideration of applications

For the purposes of section 96 (a) of the Act, the matters to be taken into consideration by

the Minister in considering whether or not to grant an aquifer interference approval include whether the amount of water taken in the course of carrying out the aquifer interference activity to which the approval relates will exceed the total extraction limit for the aquifer set out in any relevant management plan.

29 Circumstances in which approvals may be amended

- (1) For the purposes of section 107 (1) (b) of the Act, the Minister may amend an approval to create 2 or more approvals from a single approval if:
 - (a) a subdivision of the land specified in the approval as the land benefited by the approval results in part of the land being held by the holder of the approval and part of the land being held by a landholder who is not the holder of the approval, or
 - (b) in the case of an approval jointly held by 2 or more persons, each of the persons request the creation of 2 or more approvals from the approval jointly held by the persons.
- (2) For the purposes of section 107 (1) (c) of the Act, the Minister may amend an approval to correct any error or omission in a description in the approval of:
 - (a) a location to which the approval relates, or
 - (b) the management plan, water source or management zone to which the approval relates.

30 Circumstances in which Minister may refuse to accept surrender of approval

For the purposes of section 108 (1A) of the Act, the Minister may refuse to accept the surrender of an approval if:

- (a) in the case of a water management work approval:
 - (i) construction of a work to which the approval relates has commenced but has not been completed in accordance with the approval, and
 - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source or its dependent ecosystems if the approval is surrendered before construction of the work is so completed, or
- (b) in the case of a water management work approval, the Minister is satisfied:
 - (i) that a work to which the approval relates is still being used or is capable of still being used, and
 - (ii) that if the approval is surrendered, the work will not be authorised under the Act, or

- (c) in the case of a controlled activity approval:
 - (i) the carrying out of a controlled activity to which the approval relates has commenced but has not been completed in accordance with the approval, and
 - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to any waterfront land if the approval is surrendered before the carrying out of the activity is so completed, or
- (d) in the case of a controlled activity approval, a maintenance period specified in the approval to enable a rehabilitation plan or vegetation management plan to be implemented has not expired, or
- (e) in the case of an aquifer interference approval:
 - (i) the carrying out of an aquifer interference activity to which the approval relates has commenced but has not been completed in accordance with the approval, and
 - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to the aquifer or its dependent ecosystems if the approval is surrendered before the carrying out of the activity is so completed.

31 Register of approvals

- (1) For the purposes of section 113 (2) of the Act, the register kept under that section may be kept in written or in electronic form.
- (2) For the purposes of section 113 (3) of the Act, the register kept under that section is to be made available for public inspection at each office of the Department.
- (3) The Secretary may also make the register, or parts of the register, available on the Department's website.

32 Security for fulfilment of obligations under approvals

- (1) An approval may be granted subject to a condition to the effect that, before commencing the construction of any work or the carrying out of any activity, the holder of the approval must provide the Minister with security for the cost of performing the holder's obligations under the approval in the event that the holder fails to perform those obligations.
- (2) The security is to be for such reasonable amount as is determined by the Minister and specified in the condition as to security.
- (3) The security may be provided, at the choice of the holder, by way of a deposit with the Minister (**a security deposit**) or a guarantee satisfactory to the Minister.
- (4) The Minister may retain a security deposit until satisfied that the holder of the

approval has fulfilled the holder's obligations under the approval.

- (5) A security deposit may be paid out, or a guarantee may be enforced, to meet the cost of performing the holder's obligations under the approval. Any balance of a security deposit remaining is to be refunded to, or at the direction of, the person who provided the security, together with any interest accrued on the deposit as a consequence of its investment.
- (6) Obligations under an approval that are required to be fulfilled after the period for which the approval remains in force do not cease merely because the approval ceases to be in force.
- (7) A security deposit may be retained and dealt with under this clause, and a guarantee may be enforced, even though the approval is no longer in force.
- (8) A person who has deposited an amount under this clause is entitled to a refund of the amount together with any interest accrued on the deposit as a consequence of its investment (less any amount paid out under this clause) if the person makes a written request to the Minister that satisfies the Minister that all obligations under the approval have been fulfilled.

Division 2 Exemptions

Subdivision 1 Preliminary

33 Definition

In this Division:

public authority does not include Landcom or the Superannuation Administration Corporation or any of their subsidiaries.

Subdivision 2 Exemption from requirement for water use approval

34 Exemption where the taking of the water is also exempt

- (1) A person who is exempt under clause 21 in relation to the taking of water for any of the purposes, and in the circumstances, specified in a provision of Part 1 of Schedule 4 is exempt from section 91A (1) of the Act in relation to the use of the water for that purpose or those purposes, and in those circumstances.
- (2) An exemption conferred by this clause that relates to an exemption under clause 21 that requires a watering program to be approved by the Minister is subject to the condition that any person claiming the exemption must, if required to do so by an authorised officer, produce the approved watering program immediately or within the period, and at the place, specified by the officer.
- (3) An exemption conferred by this clause in respect of an exemption under clause 21

with respect to approved watering for basic human water needs (within the meaning of clause 14 of Schedule 4) ceases to apply at the same time as the exemption ceases to apply under clause 21 (4).

- (4) An exemption conferred by this clause in respect of an exemption under clause 21 with respect to the taking of water for the purposes and in the circumstances specified in clause 17 of Schedule 4 (Emergency safety measures) is subject to the condition that the person claiming the exemption must comply with all applicable requirements (if any) of the Minister:
- (a) that are published in the Gazette, or notified in writing to the person, for the purposes of this subclause, and
 - (b) that are for the purposes of implementing the water management principles in relation to the use of water the subject of the exemption.

35 Water used for particular purposes

A person is exempt from section 91A (1) of the Act in relation to the use of water if the water is used for any of the following purposes:

- (a) the use of water for a purpose for which a development consent is in force under the [Environmental Planning and Assessment Act 1979](#), other than the use of water for power generation by a major utility,
- (b) the use of water for domestic consumption or stock watering,
- (c) the use of water by, or on behalf of, the holder of a specific purpose access licence for Aboriginal cultural purposes for any purpose for which water may be taken under the licence,
- (d) the use of water for an environmental purpose in accordance with a plan approved by the Minister under section 8E (7) of the Act.

36 Aquifer interference in connection with mining

A person who is engaged in an aquifer interference activity in connection with the mining or extraction of any material is exempt from section 91A (1) of the Act in relation to the using of water from an aquifer if the water is used in accordance with an aquifer interference approval with respect to that activity.

Subdivision 3 Exemption from requirement for water supply work approval

37 Exemptions relating only to construction of water supply works

- (1) A person is exempt from section 91B (1) of the Act in relation to the construction of any of the following water supply works:

- (a) a water supply work constructed for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991* and for no other purpose,
 - (b) the construction of a water pipe for use solely for conveying water from one place to another,
 - (c) the construction of a water reticulation work on land the subject of a water use approval.
- (2) Subclause (1) does not apply to a water supply work constructed on any of the following land:
- (a) land within an area declared to be an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,
 - (b) land within an area declared to be critical habitat under Division 3 of Part 7A of the *Fisheries Management Act 1994*,
 - (c) land that is a heritage conservation area within the meaning of an environmental planning instrument that applies to the land under the *Environmental Planning and Assessment Act 1979*,
 - (d) land that is an Aboriginal place within the meaning of the *National Parks and Wildlife Act 1974*,
 - (e) land that is reserved for any purpose under the *National Parks and Wildlife Act 1974*,
 - (f) land the subject of a conservation agreement in force under section 69B of the *National Parks and Wildlife Act 1974*,
 - (g) land the subject of a property vegetation plan under Part 4 of the *Native Vegetation Act 2003* (as continued in force under the *Biodiversity Conservation Act 2016*),
 - (h) land within a State forest within the meaning of the *Forestry Act 2012* (other than land in any part of a State forest that is a plantation within the meaning of that Act),
 - (i) land within a coastal wetlands and littoral rainforests area (within the meaning of the *Coastal Management Act 2016*),
 - (j) waterfront land (other than waterfront land relating to a minor stream).

38 Exemptions relating only to use of water supply works

A person is exempt from section 91B (1) of the Act in relation to the use of any of the

following water supply works if the work is used for any of the purposes, and in the circumstances, specified in relation to the work:

- (a) a water supply work used for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*,
- (b) a water storage work, water reticulation work or water impounding work that was in use before 1 July 2004 to convey or impound water taken pursuant to:
 - (i) an entitlement, or
 - (ii) (the previously repealed) section 7 (7) of the former 1912 Act, that is used pursuant to that entitlement for a purpose permitted by that entitlement, or for a purpose permitted by section 7 (7) of the former 1912 Act,
- (c) a water reticulation work used for the purpose of conveying water to land:
 - (i) the subject of a water use approval, or
 - (ii) the use of water on which does not require a water use approval,
- (d) a hydro-electric power station that is operated in connection with a water supply work owned by Water NSW or the Ministerial Corporation, and is authorised by Water NSW or the Ministerial Corporation to be so operated, but only if:
 - (i) the water taken by the work is used for the purpose of generating hydro-electric power, and
 - (ii) the water taken by the work is returned to the same water source from which it was taken, and
 - (iii) the returned water is of the same quality as it was when it was taken (in terms of chemical composition, temperature, sediment content and salinity),
- (e) a water tanker (being a motor vehicle including a tank for the purpose of conveying water) and any water pump comprising part of the water tanker, but only if:
 - (i) the water tanker or pump is used to take or convey water for the purpose of dust suppression activities by a public authority, and
 - (ii) the public authority is satisfied that taking the water will not have a significant adverse impact on basic landholder rights or land referred to in clause 37 (2) (a)–(j).

39 Exemptions relating to both construction and use of water supply works

- (1) The following persons are exempt from section 91B (1) of the Act in relation to the construction or use of a water supply work if the work is constructed or used for any of the purposes, and in the circumstances, specified in relation to the work:

- (a) any person who is a landholder, in relation to the construction of an excluded work referred to in item 1, 2, 3, 4, 6, 7 or 9 in Schedule 1 that is situated on the land, or the use of the work for any of the purposes, and in the circumstances, specified in Schedule 1 in respect of the work,
 - (b) any person who is a landholder, in relation to the construction or use of an excluded work referred to in item 5 or 8 in Schedule 1 that is situated on the land,
 - (c) any person, in relation to the construction of an exempt monitoring bore, or the use of that bore, for measuring water levels, water pressure or water quality,
 - (d) any person who is engaged in an aquifer interference activity in connection with the mining or extraction of any material, in relation to the construction or use of a water management work for the purpose of taking and using water from an aquifer in accordance with an aquifer interference approval with respect to that activity,
 - (e) the Ministerial Corporation, in relation to the construction or use of a water supply work used for approved watering for basic human water needs (within the meaning of clause 14 of Schedule 4),
 - (f) any person, in relation to the construction or use of a water supply work for the purposes only of complying with a direction given under the *State Emergency Service Act 1989* or the *State Emergency and Rescue Management Act 1989* in an emergency (within the meaning of the latter Act), but only if:
 - (i) the person's compliance with the direction is in accordance with the Act under which it is given, and
 - (ii) the water supply work is removed within 3 months (or such longer period as is approved of in writing by the Minister) after it is constructed,
 - (g) any person, in relation to the construction or use of a water supply work for the control or prevention of soil erosion that is included in a project approved under section 10 of the *Soil Conservation Act 1938*, for the purpose of giving effect to the project.
- (2) An exemption conferred by subclause (1) (c) is subject to a condition that any person claiming the exemption must furnish Water NSW with the following:
- (a) a report on the completion of the construction of the exempt monitoring bore not more than 60 days after the completion,
 - (b) any report that the *Minimum Construction Requirements for Water Bores in Australia* states is to be prepared, not more than 60 days after the event or activity in respect of which the report is to be prepared.

- (3) An exemption conferred by subclause (1) (e) is subject to a condition that any person claiming the exemption must, if required to do so by an authorised officer, produce the approved watering program required by the exemption, immediately or within the period, and at the place, specified by the officer.
- (4) An exemption conferred by subclause (1) (e) ceases to apply at the same time as the exemption under clause 21 (4) ceases to apply in respect of the taking of the water for approved watering for basic human water needs.
- (5) An exemption conferred by subclause (1) (f) is subject to the condition that the person claiming the exemption must comply with all applicable requirements (if any) of the Minister:
 - (a) that are published in the Gazette, or notified in writing to the person, for the purposes of this subclause, and
 - (b) that are for the purposes of implementing the water management principles in relation to the construction or use of the water supply work the subject of the exemption.

Subdivision 4 Exemption from requirement for controlled activity approval

40 Condition applying to all exemptions under this Subdivision

An exemption conferred under this Subdivision is subject to the condition that the person by whom the relevant controlled activity is carried out must comply with applicable requirements (if any) of the Minister that are published in the Gazette, or notified in writing to the person, for the purposes of this clause and that are for the protection of:

- (a) the waterfront land on which the activity is carried out, or
- (b) any river, lake or estuary to which that land has frontage.

41 Controlled activities—public authorities

A public authority is exempt from section 91E (1) of the Act in relation to all controlled activities that it carries out in, on or under waterfront land.

42 Controlled activities—persons other than public authorities

A person (other than a public authority) is exempt from section 91E (1) of the Act in relation to controlled activities specified in Part 2 of Schedule 4 that are carried out in, on or under waterfront land.

43 Network operators and pipeline licensees

- (1) A network operator or pipeline licensee is exempt from section 91E (1) of the Act in

relation to a relevant activity of the operator or licensee if:

- (a) the activity is carried out in, on or under waterfront land relating to a river, estuary or lake (other than in or on the bed or banks of a river, the bed or shore of a lake, or the bed of land lying between the bed and mean high water mark of an estuary), and
- (b) the activity does not cause any change in the course of the river, and
- (c) the operator or licensee, after considering the environmental impact of the activity in accordance with section 5.5 of the *Environmental Planning and Assessment Act 1979* (as if the operator or licensee were the determining authority under that section), is satisfied that activity is not likely to significantly affect the environment.

(2) In this clause:

network operator means a network operator that is licensed or authorised under the *Water Industry Competition Act 2006*, *Gas Supply Act 1996* or *Electricity Supply Act 1995*.

pipeline licensee means a licensee under the *Pipelines Act 1967*.

relevant activity of a network operator or pipeline licensee means the construction, modification, repair or maintenance of, or emergency work on:

- (a) in the case of a network operator, the operator's water, gas or electricity infrastructure, and
- (b) in the case of a pipeline licensee, the pipeline the subject of the licence and its associated infrastructure.

Subdivision 5 Exemption from operation of section 106

44 Exemption from operation of section 106

Section 106 of the Act does not apply to:

- (a) a water management work approval for a work used by a person referred to in clause 2, 4, 5 or 6 of Schedule 4 solely for taking water for a purpose for which the person is exempted by clause 21 from the requirement for an access licence, or
- (b) a water use approval for the use of water for such a purpose.

Subdivision 6 Exemption from requirement for flood work approval

45 Definition

In this Division:

designated high risk flood area means:

- (a) a recognised floodway that is designated by a converted floodplain management plan, or
- (b) an area of a floodplain that is within Management Zone A or D under a management plan that applies to the floodplain.

46 Exemption relating to compliance with State emergency direction

- (1) A person is exempt from section 91D (1) of the Act if the person constructs, uses or modifies a flood work in compliance with a direction given under the *State Emergency and Rescue Management Act 1989* or *State Emergency Service Act 1989*.
- (2) An exemption conferred by subclause (1) ceases to apply 3 months after the date on which the direction was given or such later date as the Minister may approve of in writing.

47 Exemption relating to work carried out by determining authorities or under development authorisations

- (1) A determining authority is exempt from section 91D (1) of the Act in relation to the construction or use of a flood work if:
 - (a) the construction or use of the work is permitted to be carried out by the determining authority under the *Environmental Planning and Assessment Act 1979* (whether or not under a development authorisation), and
 - (b) the work is situated in or on:
 - (i) a place that is located within a managed designated high risk flood area, or
 - (ii) any other place (unless it is located within an unmanaged designated high risk flood area).
- (2) A person (other than a determining authority) is exempt from section 91D (1) of the Act in relation to the construction or use of a flood work on a landholding that is owned or occupied by the person if:
 - (a) the construction or use of the work is carried out under a development authorisation, and
 - (b) the work is situated in or on:
 - (i) a place that is located within a managed designated high risk flood area, or
 - (ii) any other place (unless it is located within an unmanaged designated high risk flood area), and
 - (c) the total area of the landholding does not exceed 0.2 hectare.

Note—

Section 5.7 of the *Environmental Planning and Assessment Act 1979* makes provision with respect to environmental impact assessments before carrying out, or approving the carrying out of, certain activities.

(3) In this clause:

determining authority has the same meaning as in Division 5.1 of Part 5 of the *Environmental Planning and Assessment Act 1979*.

development authorisation means:

- (a) development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (b) approval within the meaning of Division 5.1 of Part 5 of the *Environmental Planning and Assessment Act 1979*.

managed designated high risk flood area means a designated high risk flood area to which a floodplain risk management plan or floodplain risk management study applies (being a plan or study that has been developed and implemented by a local council in accordance with the *Floodplain Development Manual 2005*, or a replacement manual, notified under section 733 of the *Local Government Act 1993*).

unmanaged designated high risk flood area means a designated high risk flood area other than a managed designated high risk flood area.

48 Exemptions relating to ring embankments around dwelling houses or certain farm infrastructure

A person is exempt from section 91D (1) of the Act if:

- (a) the person constructs or uses on the person's land a flood work consisting of:
 - (i) one or more ring embankments that enclose a dwelling house, shed or storage silo, or
 - (ii) one or more partial ring embankments that, together with the slope of land, enclose a dwelling house, shed or storage silo, and
- (b) the area (or total area) enclosed does not exceed 2 hectares or 10% of the area of the person's land, whichever is the lesser, and
- (c) the work is not situated in or on a place that is located within a designated high risk flood area.

49 Exemptions relating to certain public authorities

- (1) NSW Trains, Sydney Trains and the Residual Transport Corporation are exempt from section 91D (1) of the Act for the construction or use of a flood work for the purposes

of a railway.

- (2) A roads authority for a public road (within the meaning of the *Roads Act 1993*) is exempt from section 91D (1) of the Act if it constructs or uses a flood work for the purposes of the public road.

50 Exemption relating to certain earthworks

A person is exempt from section 91D (1) of the Act if:

- (a) the person constructs or uses a flood work that consists of earthworks (including farm tracks and check banks) that are less than 150 millimetres above (but not below) the natural surface of the ground in or on which it is constructed or situated, and
- (b) the work is not situated in or on a place that is located within a designated high risk flood area.

Part 4 Irrigation corporations

Division 1 Inclusion of land within irrigation corporation's area of operations

51 Applications to include land within area of operations

- (1) An application under section 128 of the Act must be in the approved form.

Note—

Section 128 (2) of the Act requires an application to identify the land to be included in an irrigation corporation's area of operations.

- (2) An application under section 128 of the Act with respect to land that is more than 15% of the irrigation corporation's existing area of operations must be advertised by the Minister by means of a notice published:
- (a) in a local newspaper, and
- (b) on the Department's website.
- (3) The notice must contain the following information:
- (a) the name of the applicants,
- (b) the name of the irrigation corporation within whose area of operations the application seeks to include land,
- (c) the purpose of the application (that is, to seek the inclusion of the land to which the application relates within the irrigation corporation's area of operations),
- (d) the area of the land to which the application relates,

- (e) the general location of the land (by lot and deposited plan number or by such other description as formally identifies the land),
- (f) the address to which, and the time by which, objections to the application should be made for the purposes of section 129 of the Act.

52 Objections to inclusion of land within area of operations

For the purposes of section 129 of the Act, an objection to the inclusion of land within an irrigation corporation's area of operations:

- (a) must be in writing, and
- (b) must be signed or otherwise authenticated by the objector, and
- (c) must contain the name and address of the objector, and
- (d) must be lodged at, or sent by post to, the address specified in the notice, as referred to in clause 51 (3) (f), or lodged electronically as provided by clause 256, within 28 days after the notice was first published, and
- (e) must specify the grounds of the objection.

Division 2 Exclusion of land from irrigation corporation's area of operations

53 Applications to exclude land from area of operations

- (1) An application under section 132 of the Act must be in the approved form.

Note—

Section 132 (2) of the Act requires an application to identify the land to be excluded from an irrigation corporation's area of operations.

- (2) An application under section 132 of the Act with respect to land that is more than 15% of the irrigation corporation's existing area of operations must be advertised by the Minister by means of a notice published:
 - (a) in a local newspaper, and
 - (b) on the Department's website.
- (3) The notice must contain the following information:
 - (a) the name of the applicants,
 - (b) the name of the irrigation corporation from whose area of operations the application seeks to exclude land,
 - (c) the purpose of the application (that is, to seek the exclusion of the land to which

- the application relates from the irrigation corporation's area of operations),
- (d) the area of the land to which the application relates,
 - (e) the general location of the land (by lot and deposited plan number or by such other description as formally identifies the land),
 - (f) the address to which, and the time by which, objections to the application should be made for the purposes of section 133 of the Act.

54 Objections to exclusion of land from area of operations

For the purposes of section 133 of the Act, an objection to the exclusion of land from an irrigation corporation's area of operations:

- (a) must be in writing, and
- (b) must be signed or otherwise authenticated by the objector, and
- (c) must contain the name and address of the objector, and
- (d) must be lodged at, or sent by post to, the address specified in the notice, as referred to in clause 51 (3) (f), or lodged electronically as provided by clause 256, within 28 days after the notice was first published, and
- (e) must specify the grounds of the objection.

Part 5 Elections

Division 1 Definitions

55 Definitions

- (1) In this Part:

calling of the ballot for an election means the date on which a notice is first published for the election under clause 79.

calling of the election for an election means the date on which a notice is published for the election under clause 73.

close of enrolments for an election means the final time and date fixed by the returning officer for the close of enrolments in the election.

close of exhibition of the roll for an election means the final time and date fixed by the returning officer for the exhibition of the roll in the election.

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations in the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means:

- (a) an election of members of a private irrigation board referred to in Part 2 of Chapter 4 of the Act, or
- (b) an election of directors of a private drainage board referred to in Part 3 of Chapter 4 of the Act, or
- (c) an election of members of a private water trust referred to in Part 4 of Chapter 4 of the Act.

final roll for an election means the roll prepared by the returning officer under Subdivision 2 of Division 6.

preliminary roll for an election means the roll prepared by the returning officer under clause 67.

returning officer means:

- (a) in the case of an election of members of a private irrigation board—the person appointed under clause 66 to be the returning officer for the election, and
- (b) in the case of an election of directors of a private drainage board or of members of a private water trust—the person appointed under clause 65 to be the returning officer for the election.

(2) In this Part, a reference to a Form is a reference to a Form set out in Schedule 5.

Division 2 Division of private irrigation districts into zones

56 Division of private irrigation districts into zones

- (1) For the purposes of the first election of members of a private irrigation board, the Minister may divide a private irrigation district into zones.
- (2) For the purposes of the second and any later election of members of a private irrigation board, the private irrigation board may divide a private irrigation district into zones.
- (3) If a private irrigation district is divided into zones, the Minister or the board must:
 - (a) subject to section 148 (3) of the Act, determine the number of members to be elected by the voters of each zone, and
 - (b) show the zones on the plan of the private irrigation district exhibited as referred to in section 143 (3) (c) of the Act.

Division 3 Eligibility to be elected

57 Eligibility for election as a member of a private irrigation board

A person (including a corporation) is eligible to be elected as a member of a private irrigation board if the person is entitled to vote in the election.

58 Eligibility for election as director of a private drainage board

- (1) A person is eligible to be elected as a director of a private drainage board if the person is entitled to vote in the election.
- (2) However, a person is ineligible for election if the person:
 - (a) has not before nomination paid all moneys that were at any time before the end of the month preceding that in which nomination day falls, due by the person to the board, or
 - (b) has been convicted in New South Wales of a serious indictable offence or has been convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be a serious indictable offence.

59 Eligibility for election as member of a private water trust

- (1) A person is eligible to be elected as a member of a private water trust if the person is entitled to vote in the election.
- (2) However, a person who has been convicted of any serious indictable offence is ineligible to be elected as a member of a private water trust or to act as a member of a private water trust.

Division 4 Entitlement to vote

60 Persons entitled to vote in election of members of a private irrigation board

- (1) A person is entitled to vote in an election of members of a private irrigation board if the person is an owner of land within the private irrigation district of that board.
- (2) Except as provided by subclauses (3) and (4), at any such election:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes if the area irrigated does not exceed 80 hectares, or
 - (ii) 3 votes if the area irrigated exceeds 80 hectares.
- (3) At an election for the West Corugan Private Domestic and Stock Water Supply and Irrigation District:

- (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes if the quantity of water allocated to the holding does not exceed 200 megalitres, or
 - (ii) 3 votes if the quantity of water allocated to the holding exceeds 200 megalitres.
- (4) At an election for the Narromine Private Domestic and Stock Water Supply and Irrigation District:
- (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes if the allocation does not exceed 150 megalitres, and
 - (ii) if the allocation exceeds 150 megalitres, 2 votes, and one additional vote for each 150 megalitres by which the allocation exceeds 150 megalitres, but only to a maximum of 10 votes.

61 Persons entitled to vote in election of directors of a private drainage board

- (1) A person is entitled to vote in an election of directors of a private drainage board if the person is the owner of land within the drainage district of that board.
- (2) At any such election:
 - (a) the owner of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of land exceeding 20 hectares but not exceeding 120 hectares is entitled to 2 votes, and
 - (c) the owner of land exceeding 120 hectares is entitled to 3 votes.
- (3) If the Crown is entitled to vote in an election, the votes may be exercised by:
 - (a) any director appointed to the board by the Minister, or
 - (b) if a director has not been appointed to the board by the Minister, by a Public Service employee authorised in writing for that purpose by the Ministerial Corporation.

62 Persons entitled to vote in election of members of a private water trust

- (1) A person is entitled to vote in an election of members of a private water trust if the person is the owner of land within the water supply district of the trust.
- (2) At an election of members of a private water trust placed in charge of irrigation works,

or works for the prevention of floods or the control of floodwaters within the Murray Basin:

- (a) the owner of an area of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 20 hectares, but not exceeding 120 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 120 hectares is entitled to 3 votes.
- (3) At an election of members of a private water trust in charge of water supplies for domestic and stock purposes:
- (a) the owner of an area of land not exceeding 800 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 800 hectares, but not exceeding 4,000 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 4,000 hectares is entitled to 3 votes.
- (4) A person who is entitled to vote under this clause may by instrument in writing authorise the trustees to place on the roll of voters the name of some other person instead of the person's own name. In such a case, the name of the other person is to be placed on the roll instead of the name of the person.
- (5) For the purposes of this clause, a person whose name is on the roll pursuant to an authority of the owner of a property is to be taken to be the owner of the area of land included in the property.

63 No other persons entitled to vote

A person is entitled to vote in an election only if:

- (a) the person has an entitlement set out in this Division, and
- (b) as at the close of enrolments, the person's name is included in the final roll for the election.

64 Enrolment of representatives

- (1) If land is owned:
- (a) by a corporation—the corporation is taken to be included in the final roll for an election only if the secretary of the corporation or some other nominee is included in that roll as the representative of the corporation, or
 - (b) by more than one trustee or legal personal representative (whether as administrators or executors) on behalf of the estate of a person—the trustees are,

or the estate is, taken to be included in the final roll for an election only if a nominee of those trustees or legal personal representatives is so included in that roll as the representative of the trustees or estate.

- (2) Only one person may be nominated to vote in the election as a representative of the corporation, trustees or estate concerned.

Division 5 Returning officer

65 Returning officer for election of members of a private water trust or directors of a private drainage board

- (1) For the purpose of an election of members of a private water trust or directors of a private drainage board, the returning officer is the person appointed by the trust or board (as the case requires) to be the returning officer for the election.
- (2) Without limiting subclause (1), the secretary of a private drainage board may be appointed as the returning officer for an election.

66 Returning officer for election of members of a private irrigation board

- (1) For the purposes of the first election of members of a private irrigation board after the commencement of section 149 of the Act, the Minister is to appoint a returning officer.
- (2) For the purpose of any other election of members of a private irrigation board, the returning officer is to be appointed by the board.
- (3) Without limiting subclause (2), the secretary of a private irrigation board may be appointed as the returning officer for an election.

Division 6 Rolls

Subdivision 1 Preparation and exhibition of preliminary roll

67 Preparation of preliminary roll

- (1) The returning officer for an election must prepare and keep:
 - (a) a preliminary roll of the persons who, in the opinion of the returning officer, are eligible to vote in the election, and
 - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.
- (2) The preliminary roll:
 - (a) must contain the names and last known addresses of each sole owner of land within the district, and

- (b) if there is more than one owner of any such land—must contain the name and last known address of any one of them who was, by notice in writing given to the returning officer, last nominated for the purposes of this paragraph by all the owners of the land, and
 - (c) must describe the area of land held by each, and
 - (d) must contain the number of votes to which each is entitled, and
 - (e) must be certified by the returning officer in accordance with Form 1.
- (3) This clause does not apply to an election held as a consequence of an earlier election that has failed if a preliminary roll for the earlier election has already been prepared by the returning officer.

68 Exhibition of preliminary roll

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days.

Subdivision 2 Preparation of final roll

69 Applications for enrolment by persons not already enrolled

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
 - (a) if satisfied that the applicant is entitled to vote, must accept the application and enter the name and address of the applicant in the final roll, or
 - (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or
 - (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

70 Objections to enrolment

- (1) Before the close of enrolments, the returning officer and any person who is entitled to

vote in an election may object to the inclusion of the name of any person in the final roll.

- (2) An objection:
 - (a) must be in Form 3, and
 - (b) must state the grounds on which it is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14-day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude from the final roll for the election the name of the person to whom the objection relates and must inform that person and the objector, in writing, that the person's name is so excluded.
- (8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has rejected the objection.
- (9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.
- (10) For the purpose of enabling the returning officer to make a decision to accept or reject an objection to the inclusion of the name of a person in the final roll, the returning officer may require a person to furnish the returning officer with such information regarding the person objected to as the returning officer may specify.

71 Postponement of ballot not to affect final roll

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of exhibition of the roll, and the roll remains the final roll for the election.

Division 7 Calling of the election

72 Final roll must be prepared before election called

- (1) The final roll in relation to an election must be prepared in accordance with Division 6 before the calling of an election.
- (2) This clause does not apply to an election held as a consequence of an earlier election that has failed if a final roll for the earlier election has already been prepared by the returning officer.

73 Notice of election

- (1) The returning officer must fix a time and place for an election and cause notice of that fact:
 - (a) to be posted to every person eligible to vote at the election, or
 - (b) to be published in a newspaper circulating generally throughout the relevant board or trust's district.
- (2) The notice:
 - (a) must state that an election is to be held for the purpose specified, and
 - (b) must call for nominations of candidates, and
 - (c) must specify the date (***the nomination day***) and time for the close of nominations, and
 - (d) must advise where nomination forms can be obtained, and
 - (e) must advise where nominations may be lodged, and
 - (f) must, in the case of a notice sent to eligible voters, contain a nomination form, and
 - (g) must advise when and where the final roll for the election will be available on public exhibition.
- (3) The time specified in the notice for the close of nominations must be at least 14 days after notice is given.

74 Postponement of nomination day

- (1) Despite clause 73 (3), the returning officer may postpone the nomination day for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice referred to in clause 73 (1).
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 8 Nominations

75 Eligibility for nomination

Any person is eligible for nomination as a candidate for election if the person is eligible, under Division 3, to be elected.

76 Nomination of candidates

- (1) A nomination of a candidate:
 - (a) must be in Form 4, and
 - (b) must be made by at least 2 persons (other than the candidate) who each are eligible to vote in the election, and
 - (c) must be endorsed with, or accompanied by, the consent of the nominee, and
 - (d) must be lodged with the returning officer before the close of nominations.
- (2) If the returning officer is of the opinion that an insufficient number of persons by whom a candidate has been nominated are eligible to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
- (3) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

77 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

78 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

Division 9 Calling of the ballot

79 Notice of ballot

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be taken in respect of an election, the returning officer must cause notice that a ballot is to be taken:
 - (a) to be published in at least one newspaper circulating locally in the area to which the election relates, or

(b) to be sent by post to each person whose name is included in the final roll at the address shown on the roll.

(2) The notice:

(a) must state that a ballot is to be taken, and

(b) must fix a time and date for the close of the ballot, and

(c) must, in the case of a notice in a newspaper, advise where copies of the final roll will be exhibited.

(3) The notice must also state that it is compulsory for persons who wish to vote in the election to be enrolled in the final roll for the election.

(4) The close of the ballot must not be earlier than 28 days after the calling of the ballot.

80 Postponement of ballot

(1) The returning officer may postpone (for a period not exceeding 14 days) the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.

(2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 10 The ballot

81 Printing of ballot-papers

(1) As soon as practicable after the close of enrolments in an election, the returning officer:

(a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a lot, and

(b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the final roll for the election.

(2) A ballot-paper for an election must contain:

(a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and

(b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and

(c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.

- (3) The directions to voters must include a direction that the voter must record a vote by placing a cross in the square set opposite the name of each candidate for whom he or she votes.

82 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) a ballot-paper that is initialled by the returning officer, and
- (b) an unsealed envelope (***the voter's envelope***) addressed to the returning officer and bearing on the back the words "NAME AND ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of a name, address and signature, and
- (c) another unsealed envelope (***the posting envelope***) that:
 - (i) is large enough to accommodate the voter's envelope if that envelope is folded, and
 - (ii) is addressed to the returning officer, and
 - (iii) is reply-paid.

83 Duplicate ballot-papers

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
 - (a) that the original ballot-paper has been spoiled, lost or destroyed, and
 - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

84 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must vote for no more than the number of persons to be elected, and
- (c) must place the completed ballot-paper (folded so that the vote cannot be seen) in the voter's envelope, and

- (d) must seal the voter's envelope, and
- (e) must complete the person's full name and address on, and must sign, the back of the voter's envelope, and
- (f) must seal the voter's envelope in the posting envelope, and
- (g) must return the envelopes to the returning officer so as to be received before the close of the ballot.

Division 11 The scrutiny

85 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any voter's envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of the voter's envelope and, without opening the envelope:
 - (a) must accept the ballot-paper in the envelope for further scrutiny and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the final roll for the election, or
 - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper without opening the voter's envelope if, after making such inquiries as the returning officer thinks fit:
 - (a) the returning officer is unable to identify the signature on the back of the envelope, or
 - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

86 Ascertaining result of ballot

The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

87 Poll clerks

- (1) The returning officer may appoint poll clerks if required.
- (2) A candidate must not be a poll clerk.

88 Scrutineers

- (1) Each voter in a ballot is entitled to request, by notice in writing given to the returning officer at any time after the close of enrolments for the ballot, the appointment of a person specified in the notice (who may, but need not, be the voter concerned) as a scrutineer for the purposes of the ballot.
- (2) The returning officer may appoint a maximum of 10 persons as scrutineers for a ballot.
- (3) The persons are to be appointed in the order in which the requests for their appointments were received by the returning officer in accordance with subclause (1).
- (4) A person must not be appointed as a scrutineer unless the person consents to the appointment.
- (5) A candidate must not be appointed as a scrutineer.
- (6) A scrutineer's functions include scrutinising the receipt of ballot-papers under clause 89.

89 Scrutiny of votes

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
 - (a) the returning officer is to produce, unopened, the voter's envelopes containing the ballot-papers accepted for scrutiny,
 - (b) in the case of an election of members of a private irrigation board—the returning officer is to ascertain the zone to which the vote relates (where applicable) and place the voter's envelope with other such envelopes for that zone,
 - (c) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in an appropriate box or other container, with (in the case of an election of members of a private irrigation board) separate boxes or other containers for each zone (where applicable),
 - (d) when the ballot-papers from all the voter's envelopes have been placed in the box or other container, the returning officer is then to open the box or other container and remove the ballot-papers,
 - (e) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (f) the returning officer is then to proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal if:

- (a) it is not initialled by the returning officer, or
 - (b) it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or
 - (c) it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper is not to be rejected as informal merely because of any mark or writing on it that is not authorised or required by this Regulation if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

90 Counting of votes

The result of a ballot for an election must be ascertained (zone by zone, where applicable) by the returning officer as follows:

- (a) if there is one person to be elected in the election—the candidate who received the highest number of votes is to be declared to be elected,
- (b) if there are 2 or more persons to be elected in the election—the candidates, not exceeding in number the number of persons to be elected, who received the highest number of votes are to be declared to be elected,
- (c) if there is an equality of votes—the returning officer is to determine by lot the candidate to be elected.

91 Notice of result of election

- (1) As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister in writing of the name of the candidate elected.
- (2) As soon as practicable after declaration of a poll, the returning officer must issue to each person elected a notice in writing of the result of the election.

Division 12 General

92 Election of directors of private drainage boards or members of private water trusts

- (1) An election of directors of a private drainage board must be held every 3 years.
- (2) An election of the members of a private water trust must be held every 3 years.

93 Decisions of returning officer final

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in any election, the decision of the returning officer on that matter is final.

94 Disposal of election papers

After the declaration of a ballot, the returning officer must keep all papers connected with the election for at least 12 months after the election.

95 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in any election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration):
 - (i) to the returning officer in connection with any election, or
 - (ii) in any document that the person furnishes for the purposes of any election, or
- (d) apply for enrolment in respect of any election in respect of which the person is already enrolled.

Maximum penalty: 1 penalty unit.

Part 6 Private drainage boards

Division 1 Constitution and procedure

96 Quorum

The number of directors that constitute a quorum for a private drainage board is as follows:

- (a) if the board consists of 3 directors—2,
- (b) if the board consists of 4 or 5 directors—3,
- (c) if the board consists of 6 or 7 directors—4.

Division 2 Finance

97 Rate book

- (1) For the purposes of section 209 (1) of the Act, a rate book is to be in a form containing the following particulars:
 - (a) assessment number,
 - (b) name of ratepayer,

- (c) additional charges for current year,
 - (d) payment received,
 - (e) receipt number,
 - (f) date of payment,
 - (g) current rates,
 - (h) arrears of rates carried forward,
 - (i) arrears,
 - (j) total,
 - (k) total due.
- (2) For the purposes of section 209 (2) of the Act, any particular relating to a rate may be altered.
- (3) For the purposes of section 209 (4) of the Act, an alteration or amendment in a rate book is to be made, signed and dated by the private drainage board's secretary and countersigned by the chairperson.

98 Rates

Rate notices by which rates are levied under section 206 of the Act must be in a form approved by the Ministerial Corporation.

99 Keeping of books and accounts

A private drainage board is to keep proper books and accounts that show full, true and regular accountings of all money received and paid by the private drainage board and the purposes for which money has been received or paid.

100 Banking

Money received by a private drainage board must be paid into an authorised deposit-taking institution to the credit of an account in the name of the private drainage board.

Part 7 Private water trusts

Division 1 Constitution and procedure

101 Meetings of members of a private water trust

- (1) Ordinary meetings of members of a private water trust are to be held at any time that the members from time to time determine.

- (2) The chairperson of a private water trust, or a majority of the members of a private water trust, may at any time call a special meeting of members of a private water trust.
- (3) Seven days notice of an ordinary meeting, and reasonable notice of a special meeting, must be given in writing to each member of a private water trust.
- (4) No business, other than the business stated in the notice of the meeting, is to be transacted at the special meeting.

102 Special general meetings

For the purposes of sections 224 (2), 225 (2) and 226 of the Act, the prescribed manner of giving notice is:

- (a) by personal delivery, or
- (b) by post, or
- (c) by email or other electronic communication.

103 Quorum

The quorum for a meeting of a private water trust is as follows:

- (a) if the trust comprises 3 members—2 members,
- (b) if the trust comprises 5 members—3 members.

104 Chairperson

- (1) The chairperson is to preside at a meeting of members of a private water trust.
- (2) If the chairperson is not present, the members of a private water trust then present are to appoint one of their number to act as chairperson.

105 Voting

- (1) Any question arising at a meeting of members of a private water trust is to be decided by a majority of votes of the members present.
- (2) In the case of an equality of votes the chairperson has a casting vote.

106 Minutes

- (1) The members of a private water trust must cause minutes of the proceedings of each meeting to be kept.
- (2) The minute books are to be open for inspection by the members of a private water trust and any ratepayer within the water supply district at any reasonable time.

107 Special general meetings of voters

- (1) The chairperson is to preside at a special general meeting of voters.
- (2) In the absence of the chairperson an appointed member of the private water trust may preside at the meeting or, if there is no appointed member of the private water trust present, an elected member of the private water trust selected by the members of the private water trust present may preside.

Division 2 Finance

108 Rate book

- (1) On fixing rates under section 232 of the Act on land in a water supply district, the members of a private water trust must enter the rates in a rate book.
- (2) The rate book is to be kept in a form approved by the Ministerial Corporation.

109 Correction of rate book

- (1) Any necessary corrections of the rate book must be made at a meeting of the members of a private water trust and be signed and dated by the chairperson.
- (2) A correction affecting the amount of a rate must not be made after notice of the amount has been given to the person liable (except in the case of a correction arising from an appeal).

110 Payment of rates

- (1) Rates are payable by instalments if the members of a private water trust so decide.
- (2) A rate or an instalment of a rate is not recoverable until 30 days after notice of the amount due has been served on the ratepayer at the ratepayer's last known or usual address.

111 Appeals

- (1) An appeal by a landholder under section 232 (6) of the Act against the amount at which the landholder is rated must be lodged within 21 days after notice of the amount has been given to the landholder.
- (2) Notice of the appeal, in a form approved by the Ministerial Corporation, must be given to the Local Court and to the secretary of the private water trust.

Division 3 Miscellaneous

112 Members of a private water trust's accounts

- (1) Money received by members of a private water trust in the operation of a private

water trust must be paid into an authorised deposit-taking institution to the credit of an account in the name of the members of the private water trust.

- (2) All expenses incurred by members of a private water trust in the discharge of duties imposed on them by the Act are payable out of the funds at the disposal of the members of the private water trust under the Act.

Part 8 Public works

113 Hunter Valley flood mitigation works—statement of particulars

The additional particulars to be set out in a statement under section 263 (3) of the Act are as follows:

- (a) an estimate of the cost to be incurred during the financial year to which the statement relates in respect of each work included in the program of flood works referred to in section 263 (1) of the Act,
- (b) an estimate of the amount of any compensation payable or likely to become payable during that financial year as a consequence of the undertaking of each such work,
- (c) an estimate of the cost of maintenance work in respect of works previously completed that the Minister considers should be carried out during that financial year,
- (d) an estimate of the amount of any compensation (other than compensation in respect of the works referred to in paragraph (a)) payable or likely to become payable by the Minister during that financial year,
- (e) an estimate of the amount of any payment to be made by the Minister during that financial year under section 261 (2) of the Act,
- (f) the percentage of the cost of the construction, carrying out and maintenance of any of the works referred to in paragraph (a), and of the amount of compensation payable or likely to become payable by the Minister as a consequence of the construction, carrying out and maintenance of such work, that a local council will be liable to contribute under section 260 of the Act,
- (g) an estimate of the amount of any payments that a local council will be required to make during that financial year under section 265 of the Act,
- (h) an estimate of the amount of any payment that is likely to be received during that financial year under section 261 of the Act from a public authority in respect of any work referred to in paragraph (a),
- (i) the amount (if any) of any payment made by Local Land Services under section 262 of the Act during the previous financial year that remained unexpended at the close of that year.

114 Hunter Valley flood mitigation works—statement of cost of maintenance and compensation

The additional particulars to be set out in a statement under section 266 (1) of the Act are as follows:

- (a) an estimate of the cost of any maintenance that the Minister considers should be undertaken during the financial year to which the statement relates in respect of each work referred to in section 265 of the Act,
- (b) an estimate of the amount of any compensation likely to become payable during that financial year by the Minister as a consequence of any such maintenance,
- (c) an estimate of the amount of compensation payable or likely to become payable during that financial year by the Minister as a consequence of any maintenance of each work referred to in paragraph (a) carried out during any previous financial year,
- (d) the percentage that, under section 260 of the Act, the Minister has determined that a local council should contribute to the cost of any such construction and maintenance,
- (e) the amount (if any) of any payment made by a local council under section 265 of the Act during any previous financial year that remained unexpended at the end of the immediately preceding financial year.

Part 9 Water supply authorities

Division 1 Preliminary

115 Definitions

In this Part:

authorised officer means:

- (a) an employee or other person acting on behalf of a water supply authority, or
- (b) a police officer.

dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate residence.

Plumbing Code of Australia means the document entitled the *Plumbing Code of Australia*, produced for all State governments by the Australian Building Codes Board, as in force from time to time.

plumbing fitting includes any pipe, apparatus or fixture used for plumbing work.

repair includes make good, replace, reconstruct, remove, alter, cleanse or clear.

sewerage service means that part of sewerage pipework, including all sanitary fixtures,

up to its point of connection to a water supply authority's sewerage system.

water service means that part of water supply pipework from its point of connection to a water supply authority's water supply system up to and including its outlet valves.

water supply service pipe means a pipe connecting a water service to a water supply authority's water supply system, and includes the plumbing fittings connected to the pipe.

Division 2 Areas of operations and functions

116 Essential Energy

- (1) Essential Energy's area of operations is the area of land shown by distinctive marking on the map marked "*Area of Operations of Broken Hill Water Board*" deposited in the offices of the Department, being:
 - (a) land within the local government area of the Broken Hill City Council, and
 - (b) the Stephens Creek, Umberumberka Creek and Yancowinna Creek Special Areas referred to in Division 6, and
 - (c) the localities of Menindee and Sunset Strip, and
 - (d) the land over which the Menindee to Stephens Creek pipeline is situated, and
 - (e) the land on which the Broken Hill Pumping Station is situated, and
 - (f) the land from the Broken Hill Pumping Station to Broken Hill on which the Broken Hill pipeline is situated.

Note—

Certain land along the route of the Menindee to Stephens Creek pipeline is supplied with water by that pipeline. Pursuant to sections 292 (2) and 311 of the Act, water service charges may be levied on that land even though it is not within the area of operations of Essential Energy.

- (2) Essential Energy has and may exercise all of the functions of a water supply authority.

117 Central Coast Council

- (1) Central Coast Council's area of operations is its local government area under the [Local Government Act 1993](#).
- (2) Central Coast Council has and may exercise all of the functions of a water supply authority.

118 Cobar Water Board

- (1) Cobar Water Board's area of operations is the area of land shown by distinctive marking on the map marked "*Area of Operations of Cobar Water Board*" deposited in

the offices of the Department, being:

- (a) the land on which the Cobar Storage Dam is situated (as shown on DP 755660), and
- (b) the locality of Canbelego, and
- (c) the land over which the Nyngan to Cobar pipeline is situated.

Note—

Certain land along the route of the Nyngan to Cobar pipeline is supplied with water by that pipeline. Pursuant to sections 292 (2) and 311 of the Act, water service charges may be levied on that land even though it is not within the area of operations of Cobar Water Board.

- (2) Cobar Water Board has and may exercise only the function of providing water services.

119 Water NSW—Fish River water supply scheme

- (1) Water NSW's area of operations (in relation to the Fish River water supply scheme) is the area of land shown by distinctive marking on the map marked "*Area of Operations of Fish River water supply scheme*" deposited in the offices of the Department, being all the land owned, occupied or used by Water NSW in relation to the Fish River water supply scheme (within the meaning of the [Water NSW Act 2014](#)) in the local government areas of Lithgow City, Oberon and Blue Mountains City, and includes:
 - (a) all land on which the following works are situated:
 - (i) the concrete dam on the Fish River at Oberon,
 - (ii) Duckmaloi weir,
 - (iii) Rydal storage, and
 - (b) all land on, over, under or in which any water management works incidental or connected to those referred to in paragraph (a) (including tunnels, pipelines, service reservoirs, pumping stations and water treatment works) are situated from time to time, and
 - (c) all land on, over, under or in which any access roads and easements in relation to the works referred to in paragraph (a) or (b) are situated from time to time.

Note—

Certain land along the route of the pipelines referred to in paragraph (b) is supplied with water by those pipelines. Pursuant to sections 292 (2) and 311 of the Act, water service charges may be levied on that land even though it is not within the area of operations of Water NSW (in relation to the Fish River water supply scheme).

- (2) Water NSW has and may exercise only the function of providing water services.

120 Sydney Olympic Park Authority

- (1) The Sydney Olympic Park Authority's area of operations is the Sydney Olympic Park Development Area within the meaning of the *Sydney Olympic Park Authority Act 2001*.
- (2) The Sydney Olympic Park Authority has and may exercise in its area of operations only such functions as relate to the Water Reclamation and Management Scheme at Sydney Olympic Park, including the collection and treatment of waste water and the distribution of treated waste water.
- (3) The provisions of this Regulation with respect to the distribution of water by a water supply authority apply equally to the distribution of treated waste water by the Sydney Olympic Park Authority.

121 Ministerial approval not required for certain works

- (1) A water supply authority is exempt from the requirement for the Minister's approval under section 292 (1) (a) of the Act except for the purposes of any of the following works:
 - (a) dams for the impounding or diversion of water for public use, including any associated works,
 - (b) dams that are, or when completed will be, prescribed dams for the purposes of the *Dams Safety Act 1978* or declared dams under the *Dams Safety Act 2015*,
 - (c) water treatment works,
 - (d) sewage works, including works for the treatment of raw sewage, effluent or biosolids and works for the discharge of raw sewage, effluent or biosolids from sewage works.
- (2) For those works for which an approval referred to in subclause (1) is required, approval may be given only if:
 - (a) all information that the Minister has required to be supplied, and all relevant documentation, has been furnished, and
 - (b) the Minister is satisfied that:
 - (i) all inspections of the proposed works, and of the site of the proposed works, that the Minister has required to be carried out for the purpose of obtaining the approval have been carried out, and
 - (ii) the water supply authority is competent to construct, maintain and operate the proposed works.
- (3) The relevant documentation referred to in subclause (2) (a) comprises:

- (a) the plans and specifications of the proposed works, and all other documents and data relating to the proposed works that are in the possession of the water supply authority, and
 - (b) such other documents as are necessary to satisfy the Minister of the matters referred to in subclause (2) (b).
- (4) An approval referred to in subclause (1) may be revoked if the Minister is satisfied that the water supply authority has failed:
- (a) to comply with any requirement to furnish information or documentation, or
 - (b) to comply with any direction given by the Minister, or
 - (c) to accept any supervision that the Minister has required,
- with respect to the construction, maintenance or operation of the works to which the approval relates.

Division 3 Water supply

Subdivision 1 Preliminary

122 Application

This Division applies to and in respect of water supplied by the following water supply authorities:

- (a) Essential Energy,
- (b) Central Coast Council,
- (c) Cobar Water Board,
- (d) Water NSW,
- (e) the Sydney Olympic Park Authority.

Subdivision 2 Water services

123 Installation and maintenance of water service by owner

- (1) An owner of land to which a water main is connected or available for connection must ensure that:
- (a) the installation of any water service, and the connection of any such water service to the water supply authority's system, are done by the holder of a plumbing permit, and
 - (b) any such water service complies with the Plumbing Code of Australia, and is kept

in good order and condition and free from blockages or leakages.

Maximum penalty: 20 penalty units.

- (2) In subclause (1), **plumbing permit**, in relation to a water supply authority, means:
- (a) a permit issued by the water supply authority under Subdivision 3 of Division 5, or
 - (b) in the case of Central Coast Council, an approval to carry out water supply work under Part 1 of Chapter 7 of the *Local Government Act 1993*.
- (3) This clause applies only in relation to work that is not plumbing and drainage work within the meaning of the *Plumbing and Drainage Act 2011*.

Note—

Section 7 of the *Plumbing and Drainage Act 2011* provides that plumbing and drainage work to which that Act applies must be code compliant under that Act. That Act requires the work to comply with the Plumbing Code of Australia and any other standards or requirements prescribed by the regulations under that Act.

124 Water service not to be shared

- (1) A person must not operate or use a shared water service without the consent of a water supply authority.
- Maximum penalty: 20 penalty units.
- (2) In this clause, **shared water service** means a water service that extends over, or supplies water to, 2 or more separately owned parcels of land.
- (3) For the purposes of subclause (2), the separate lots in a strata scheme under the *Strata Schemes Development Act 2015* are taken to constitute a single parcel of land.

125 Fire-fighting services

- (1) A person must not:
- (a) install or maintain a fire-fighting service that does not comply with the Plumbing Code of Australia, or
 - (b) fail to comply with any direction given by a water supply authority as to the way in which the person must comply with the Plumbing Code of Australia in relation to a fire-fighting service.

Maximum penalty: 20 penalty units.

- (2) A person must not use a fire-fighting service otherwise than for the following purposes:
- (a) the purpose of controlling or extinguishing a fire,

(b) some other purpose approved by the relevant water supply authority.

Maximum penalty: 20 penalty units.

(3) In this clause, **fire-fighting service** means such parts of a water service as are designed to be used for controlling and extinguishing fires.

126 Misuse and waste of water

(1) A person must not:

- (a) cause or allow a plumbing fitting to be used, or
- (b) cause or allow a plumbing fitting to be out of repair, or
- (c) cause or allow anything else to be done,

so as to waste water supplied by a water supply authority.

(2) A person must not cause or allow water supplied by a water supply authority to be used for the purpose of diluting anything whose discharge into a sewerage system requires a discharge approval under Subdivision 3 of Division 4.

(3) A person must not cause or allow anything to be done so as to contaminate water within a water supply authority's water supply system.

Maximum penalty: 20 penalty units.

127 Water to be taken through approved stoptaps

Except with the consent of the relevant water supply authority, a person must not take water from a water main otherwise than by means of a water supply service pipe that is connected to the water main by means of a stoptap approved by the water supply authority.

Maximum penalty: 20 penalty units.

128 Information regarding supply

(1) A water supply authority may direct an owner or occupier of land to furnish it with such information in that person's knowledge as is necessary to enable the water supply authority to assess the quantity of water supplied to the land.

(2) It is an offence for a person to fail to comply with a direction under this clause.

Maximum penalty: 10 penalty units.

129 Consents may be conditional, and may be varied and revoked

A consent given by a water supply authority for the purposes of this Subdivision is to be in writing, may be given unconditionally or subject to conditions and may be varied or

revoked by the water supply authority (by written notice served on the holder of the consent) at any time and for any reason.

Subdivision 3 Meters

130 Measurement of water supply

- (1) The supply of water from a water main to any land is to be measured by means of a meter provided by, or in some other manner approved by, the relevant water supply authority.
- (2) In the absence of evidence to the contrary, the quantity of water supplied from a water supply system is taken to be the quantity registered by such a meter.

131 Property in meters

Any meter or plumbing fitting provided by a water supply authority, and connected to or forming part of a water supply service pipe, remains the property of the water supply authority.

132 Access to meters

If a meter for any land is so installed or located that it cannot be conveniently read or examined, the owner of the land:

- (a) must cause the meter to be re-positioned, or
- (b) must take such other action as is necessary to enable the meter to be conveniently read or examined,

in accordance with the directions of the relevant water supply authority.

Maximum penalty: 10 penalty units.

133 Care of meters

- (1) An occupier of land, or an owner of unoccupied land, must keep protected from damage any meter and meter fittings that are connected to or form part of a water supply service pipe for the land.

Maximum penalty: 10 penalty units.

- (2) An occupier of land, or an owner of unoccupied land, is liable to a water supply authority for the cost of repairing any damage caused to a meter by a failure to comply with subclause (1).

134 Discontinuance of use of meters

An occupier of land, or an owner of unoccupied land, who intends to discontinue the use of a meter provided by a water supply authority must give it at least 14 days written

notice of that fact.

Maximum penalty: 10 penalty units.

135 Testing of meters

- (1) An owner or an occupier of land for which a meter has been installed may apply to the relevant water supply authority to have the meter tested.
- (2) An application to have a meter tested must be in a form approved by the water supply authority.
- (3) If, on being tested, a meter registers less than 3% above the quantity of water passed through it, the person who required the test must pay such fee as the water supply authority determines for the expenses of the test.
- (4) If, on being tested, a meter registers 3% or more above the quantity of water passed through it:
 - (a) an adjustment proportionate to the percentage of error is to be made in the reading objected to and in any further reading up to the time of removal of the meter, and
 - (b) the water supply authority is to bear the expenses of the test.
- (5) No adjustment is to be made if a meter registers within 3% of the quantity of water passed through it.
- (6) If, at any reading, a meter is registering inaccurately or has ceased to register, the water supply authority is entitled to adjust the charge for water supplied during the period to which the reading relates on the basis of a daily consumption equal to the average daily consumption during a corresponding previous period.
- (7) If there was no reading for a corresponding previous period, or if the water supply authority is of the opinion that an adjustment on the basis of such a period would not be reasonable, it may assess the quantity of water used or may adjust the charge on such other basis as may be mutually agreed on between it and the consumer.

136 Installation of meters

- (1) A water supply authority may install, and may charge hire for:
 - (a) meters for measuring the quantity of water supplied, and
 - (b) pipes and apparatus for the conveyance, reception and storage of water.
- (2) Alternatively, a water supply authority may require a person requiring a supply of water:
 - (a) to install the appropriate meters, pipes or apparatus in accordance with its

requirements, and

(b) to maintain them in good working order.

- (3) A meter that is installed for measuring the quantity of water supplied to land is to be installed on the water supply service pipe for the land, at a point that, in the opinion of the water supply authority, is as near as practical to the boundary of the land.

Subdivision 4 Fire hydrants

137 Installation of fire hydrants

- (1) A water supply authority must install fire hydrants in its water mains at such convenient distances, and at such places, as are necessary for the ready supply of water to control and extinguish fires.

(2) Subclause (1) does not apply:

(a) so as to require fire hydrants to be installed in any water main that is less than 100 millimetres in diameter, or

(b) so as to require fire hydrants to be installed if the water supply system is not sufficient for the operation of fire hydrants,

in which case the water supply authority may provide other means for the ready supply of water to control and extinguish fires.

- (3) A water supply authority may, at the request and expense of the owner or occupier of any building, install a fire hydrant for use for controlling or extinguishing fires in or in the vicinity of the building.

- (4) A water supply authority may remove any fire hydrant referred to in subclause (1) if it is satisfied on reasonable grounds that the hydrant is no longer needed.

138 Maintenance of fire hydrants

A water supply authority must ensure that all fire hydrants installed by it are maintained in effective working order.

139 Supply of water to fire hydrants

- (1) A water supply authority must at all times keep charged with water any water main or pipe supplying water to a fire hydrant installed by it, unless prevented from doing so:

(a) by drought or other emergency, or

(b) while necessary repairs to the water main, pipe or hydrant are being carried out.

- (2) A water supply authority is not required to comply with subclause (1) in respect of a pipe supplying water to a fire hydrant if:

- (a) the pipe is a water transfer pipe that is not in continuous operation, and
 - (b) the water supply authority has given notice in writing to the relevant fire authority for the location concerned of the fact that the fire hydrant might not be operable because the pipe supplying water to the fire hydrant is not in continuous operation.
- (3) In this clause, the **relevant fire authority** for a location is:
- (a) in the case of a location within a fire district constituted under the *Fire Brigades Act 1989*—the Commissioner of Fire and Rescue NSW, or
 - (b) in the case of a location within a rural fire district constituted under the *Rural Fires Act 1997*—the Commissioner of the NSW Rural Fire Service.

140 Use of fire hydrants by authorised persons

Any person authorised to do so by the water supply authority may take water from a fire hydrant, without charge, for the purpose of controlling or extinguishing fires.

Subdivision 5 Water restrictions

141 Restrictions on use of water during periods of shortage

- (1) If a water supply authority considers it necessary to do so in order to conserve supplies of water in time of drought or other emergency, it may, by a notice under this clause, regulate or restrict any of the following:
- (a) the purposes for which water may be used,
 - (b) the times when water may be used,
 - (c) the quantities of water that may be used,
 - (d) the means or methods by which water may be used.
- (2) A notice made by a water supply authority under this clause:
- (a) may apply to the whole of its area of operations or to such part of that area as is specified in the notice, and
 - (b) has effect despite the provisions of any contract relating to the supply of water by the water supply authority.
- (3) A notice made by a water supply authority under this clause:
- (a) is to be published in a newspaper circulating in its area of operations, and
 - (b) takes effect on the date specified in the notice (being a date that is not earlier than the date on which the notice is published).

- (4) A person must not use water contrary to a notice under this clause.

Maximum penalty: 20 penalty units.

- (5) Nothing in this clause authorises the use of water contrary to any restriction or requirement imposed under the [Essential Services Act 1988](#).

Division 4 Sewerage

Subdivision 1 Preliminary

142 Application

- (1) This Division (other than Subdivision 3) applies to and in respect of the sewerage systems of the following water supply authorities:
- (a) Essential Energy,
 - (b) Central Coast Council.
- (2) Subdivision 3 applies to and in respect of the sewerage systems of Essential Energy.

Note—

Subdivision 3 deals with the discharge of matter into a water supply authority's sewerage system. The discharge of matter into a local council's sewerage system is dealt with not under that Subdivision but under Part 1 of Chapter 7 of the [Local Government Act 1993](#).

Subdivision 2 Sewerage systems

143 Installation and maintenance of sewerage service by owner

- (1) An owner of land to which a sewer main is connected or available for connection must ensure that:
- (a) the installation of any sewerage service, and the connection of any such sewerage service to the sewer main, are done by the holder of a plumbing permit, and
 - (b) any such sewerage service complies with the Plumbing Code of Australia, and is kept in good order and condition and free from blockages or leakages.

Maximum penalty: 20 penalty units.

- (2) In subclause (1), **plumbing permit**, in relation to a water supply authority, means:
- (a) a permit issued by the water supply authority under Subdivision 3 of Division 5, or
 - (b) in the case of Central Coast Council, an approval to carry out sewerage work under Part 1 of Chapter 7 of the [Local Government Act 1993](#).
- (3) This clause applies only in relation to work that is not plumbing and drainage work within the meaning of the [Plumbing and Drainage Act 2011](#).

Note—

Section 7 of the *Plumbing and Drainage Act 2011* provides that plumbing and drainage work to which that Act applies must be code compliant under that Act. That Act requires the work to comply with the Plumbing Code of Australia and any other standards or requirements prescribed by the regulations under that Act.

144 Sewerage service not to be shared

(1) A person must not:

- (a) operate or use a shared sewerage service, or
- (b) install, maintain or use a sewerage service for any land beyond the boundary of that land,

without the consent of the relevant water supply authority.

Maximum penalty: 20 penalty units.

- (2) In subclause (1) (a), **shared sewerage service** means a sewerage service that extends over, or receives sewage from, 2 or more separately owned parcels of land.
- (3) Subclause (1) (b) does not prohibit the extension of a sewerage service beyond the boundaries of land for the purpose only of connecting the service to the water supply authority's sewer main.
- (4) For the purposes of this clause, the separate lots in a strata scheme under the *Strata Schemes Development Act 2015* are taken to constitute a single parcel of land.
- (5) This clause applies only in relation to work that is not plumbing and drainage work within the meaning of the *Plumbing and Drainage Act 2011*.

145 Consents may be conditional, and may be varied and revoked

A consent given by a water supply authority for the purposes of this Subdivision is to be in writing, may be given unconditionally or subject to conditions and may be varied or revoked by the water supply authority (by written notice served on the holder of the consent) at any time and for any reason.

Subdivision 3 Discharges into sewerage systems

146 Definitions

In this Subdivision:

approved discharge policy, in relation to a water supply authority, means a policy with respect to the discharge of substances into the water supply authority's sewerage system that is approved by the Minister under clause 147.

discharge approval means an approval for the discharge of a substance into a water

supply authority's sewerage system.

147 Discharge policies

- (1) A water supply authority may apply to the Minister for approval of a policy with respect to the discharge of substances into its sewerage system.
- (2) The Minister may approve a policy in the form in which it has been submitted for approval, may approve the policy with specified modifications or may refuse to approve the policy.
- (3) A policy is not to be approved under this clause unless it contains provisions with respect to each of the following matters:
 - (a) the classification of different categories of substances, including:
 - (i) categories of exempt substances for which no discharge approval is required, and
 - (ii) categories of prohibited substances for which no discharge approval is to be granted,
 - (b) the procedures to be followed by a water supply authority in dealing with an application for a discharge approval, including the matters to be taken into consideration by the water supply authority when dealing with such an application,
 - (c) the conditions to be met in relation to discharge approvals, including (in particular) conditions as to the concentration limits of substances to be discharged,
 - (d) the charging methods to be applied with respect to discharges,
 - (e) such other matters as the Minister may determine.
- (4) A water supply authority must not issue a discharge approval under this Subdivision otherwise than in accordance with a discharge policy approved under this clause.

148 Discharges require discharge approval

- (1) A person must not cause or allow anything (including stormwater) to be discharged, whether directly or indirectly, into a water supply authority's sewerage system otherwise than in accordance with a discharge approval.

Maximum penalty: 20 penalty units.

- (2) Subclause (1) does not apply to the discharge into a water supply authority's sewerage system of the following substances:
 - (a) kitchen, laundry, bathroom and toilet waste from residential premises, and backwash from swimming pools situated on residential premises,

- (b) bathroom and toilet waste from commercial and industrial premises,
 - (c) kitchen waste from individual caravan park sites,
 - (d) laundry waste from common caravan park facilities,
 - (e) any substance that is exempted from the requirements of subclause (1) by the water supply authority's approved discharge policy.
- (3) Subclause (2) does not authorise the discharge into a water supply authority's sewerage system, otherwise than in accordance with a discharge approval, of the contents of any human waste storage facility (within the meaning of the *Local Government Act 1993*).

149 Application for discharge approval

- (1) An application for a discharge approval:
- (a) must be made in a form approved by the water supply authority, and
 - (b) must be accompanied by:
 - (i) plans and specifications of any plumbing work to be done pursuant to the approval, and
 - (ii) plans and specifications of any apparatus to be used pursuant to the approval, and
 - (iii) details of the nature and quantity of the waste to be discharged pursuant to the approval, and the frequency or rate at which it is to be discharged, and
 - (iv) such other documentation as the water supply authority may require, and
 - (v) in the case of an application for a discharge approval with respect to land, the consent in writing of the owner of the land, and
 - (c) must be lodged personally or by post at an office of the water supply authority.
- (2) An applicant must pay the fee determined by a water supply authority for the issue of a discharge approval.

Note—

Section 344 of the Act provides that it is an offence to make a false or misleading application.

150 Conditions of discharge approvals

- (1) A water supply authority may grant a discharge approval subject to conditions.
- (2) Such a condition may do one or more of the following:

- (a) it may require that the volume of substances discharged pursuant to the discharge approval be measured or determined by a meter or other device specified by the water supply authority,
 - (b) it may specify:
 - (i) the maximum aggregate daily quantity of substances to be discharged, and
 - (ii) the characteristics of the substances permitted to be discharged, and
 - (iii) the maximum permissible rate of discharge, and
 - (iv) the times during which the discharge is permitted, and
 - (v) the size and capacity of the drain for conveying substances into the water supply authority's sewerage system,
 - (c) it may require that specified measures be taken to ensure that any or all of the following requirements are complied with:
 - (i) that the aggregate daily quantity of substances discharged does not exceed a specified quantity,
 - (ii) that the rate of discharge of substances does not exceed a specified rate,
 - (iii) that the size and capacity of the drain for conveying substances into the water supply authority's sewerage system are in accordance with specified requirements as to size and capacity,
 - (iv) that substances are discharged only during specified times,
 - (v) that the volume of substances discharged is measured or determined by a specified meter or other device,
 - (vi) that specified modifications to works from which the substances arise, or to works for treating the substances, are carried out.
- (3) From time to time, a water supply authority:
- (a) may vary or revoke the conditions of a discharge approval, or
 - (b) may impose further conditions on a discharge approval.
- (4) A person must not contravene a condition of a discharge approval.
- Maximum penalty: 20 penalty units.

151 Duration of discharge approvals

- (1) Unless sooner suspended or cancelled, a discharge approval has effect:

- (a) for such period as is specified in the approval, or
 - (b) if no such period is so specified, for 5 years,
- from the date on which it is granted.

- (2) A water supply authority may, on the application of the holder of a discharge approval, extend the period for which the approval has effect.

152 Renewal of discharge approvals

- (1) An application for renewal of a discharge approval:
 - (a) must be made in a form approved by the relevant water supply authority, and
 - (b) must be lodged personally or by post at an office of the relevant water supply authority.
- (2) An applicant must pay the fee determined by the relevant water supply authority for the renewal of a discharge approval.
- (3) Clauses 149, 150 and 151 apply to an application for the renewal of a discharge approval in the same way as they apply to an application for a discharge approval.

Note—

Section 344 of the Act provides that it is an offence to make a false or misleading application.

153 Suspension or cancellation of discharge approval

- (1) A water supply authority may, by written notice served on the holder of a discharge approval, suspend or cancel the approval if:
 - (a) the approval has been granted on the basis of false or misleading information, or
 - (b) the holder of the approval has contravened a condition of the approval, or
 - (c) the holder of the approval has contravened the Act, this Regulation or a direction under the Act or this Regulation.
- (2) The notice must set out the reason for the suspension or cancellation.
- (3) A water supply authority may suspend or cancel a discharge approval at the request of the holder of the approval.

Division 5 Plumbing fittings, plumbing work and plumbing permits

Subdivision 1 Preliminary

154 Application of Division

- (1) This Division applies to any plumbing work that affects a water supply authority and which is carried out in the area of operations of Essential Energy, but not to plumbing and drainage work within the meaning of the *Plumbing and Drainage Act 2011*.
- (2) In this clause, **plumbing work that affects a water supply authority** means work comprising or affecting:
 - (a) a water service or its connection to a water supply authority's water supply system, or
 - (b) a sewerage service or its connection to a water supply authority's sewerage system.

Note—

The *Plumbing and Drainage Act 2011* sets out standards and other requirements for plumbing and drainage work within the meaning of that Act.

155 Definitions

In this Part:

authorised plumbing fitting means a plumbing fitting that is authorised for use under clause 167 within the area of operations of the relevant water supply authority.

certificate of compliance means a certificate of the kind referred to in clause 159.

Note—

A certificate of compliance under this Division is not to be confused with a certificate of compliance granted under section 307 of the Act in relation to the carrying out of development within a water supply authority's area of operations.

plumbing permit means a permit issued under Subdivision 3.

plumbing work means plumbing work to which this Division applies.

working day means a day that is not a Saturday, Sunday or public holiday.

Subdivision 2 Plumbing work

156 Permit required for plumbing work

- (1) A person must not do plumbing work otherwise than in accordance with a plumbing permit authorising the person to do the work.

Maximum penalty: 20 penalty units.

- (2) A person is not guilty of an offence against this clause if:
- (a) the work is done in an emergency:
 - (i) to prevent waste of water, or
 - (ii) to restore a water supply that has been shut off to prevent waste of water, or
 - (iii) to free a choked pipe, or
 - (iv) to prevent damage to property, and
 - (b) the person applies for a plumbing permit for the work within 2 working days after the work is done.
- (3) This clause does not apply to or in respect of plumbing work done by an employee of a water supply authority.
- (4) A water supply authority may grant plumbing permits for the purposes of this clause in accordance with the Plumbing Code of Australia.

157 Plumbing work to comply with specified standards

A person must not do plumbing work otherwise than in accordance with the Plumbing Code of Australia.

Maximum penalty: 20 penalty units.

158 Plumbing work to use authorised plumbing fittings

A person must not use any plumbing fitting for plumbing work unless it is an authorised plumbing fitting.

Maximum penalty: 20 penalty units.

159 Certificate of compliance following completion of plumbing work

- (1) A person who does plumbing work must, within 48 hours after completing the work:
- (a) give a water supply authority a certificate of compliance duly completed and signed by the person, and
 - (b) give a copy of the certificate to the owner of the land on which the work was done or to which the work was connected.

Maximum penalty: 20 penalty units.

- (2) A certificate of compliance must be in a form approved by the relevant water supply authority and must certify that the plumbing work to which it relates has been

completed in accordance with the Plumbing Code of Australia.

- (3) A person must not, in a certificate of compliance, provide information that the person knows to be false or misleading in a material particular.

Maximum penalty: 20 penalty units.

- (4) This clause does not apply to or in respect of plumbing work done by an employee of a water supply authority.

160 Rectification of defective plumbing work

- (1) A water supply authority may, by written notice served on a person who is doing plumbing work, direct the person:

- (a) to repair, as specified in the notice, work done otherwise than in a professional manner, or
- (b) to bring into conformity with the Plumbing Code of Australia work done otherwise than in accordance with that Code, or
- (c) to bring into conformity with the conditions imposed on a plumbing permit work done otherwise than in accordance with those conditions, or
- (d) to repair or replace, as specified in the notice, a defective plumbing fitting used in any of the work done, or
- (e) to bring into conformity with its approval any plumbing fitting that does not comply with the approval.

- (2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 20 penalty units.

- (3) If a direction is given to a person before a certificate of compliance is given for the work, the person must not continue with the work until the direction has been complied with.

Maximum penalty: 20 penalty units.

- (4) A direction is of no effect if it is issued more than 2 years after the work to which it relates has been completed.

161 Exemption from certain requirements

- (1) A water supply authority may exempt all persons, or any specified class of persons, from any or all of the following requirements of this Subdivision:

- (a) the requirement to hold a plumbing permit authorising the doing of plumbing work,

- (b) the requirement to complete a certificate of compliance with respect to plumbing work,
 - (c) the requirement to use only authorised plumbing fittings for plumbing work.
- (2) An exemption under subclause (1) (a) or (b) may relate to plumbing work generally or to any specified kind or kinds of plumbing work.
 - (3) An exemption under subclause (1) (c) may relate to plumbing fittings generally or to any specified kind or kinds of plumbing fitting.
 - (4) A water supply authority may vary or revoke any exemption under this clause.
 - (5) Notice of any exemption granted under this clause, or of any variation or revocation of such an exemption, may be given in such manner as a water supply authority considers appropriate.
 - (6) A person in respect of whom an exemption under this clause ceases to have effect by reason only of the fact that the exemption is varied or revoked is not guilty of an offence in respect of any act or omission unless it is established that he or she was aware of that fact when the act or omission occurred.
 - (7) A person is taken to be aware that an exemption has been varied or revoked if written notice of that fact is served on the person, either personally or by post.
 - (8) Subclause (7) does not limit any other circumstances in which a person may be taken to be aware of the fact that an exemption has been revoked or varied.

Subdivision 3 Plumbing permits

162 Application for plumbing permit

- (1) An application for a plumbing permit:
 - (a) must be made in a form approved by the relevant water supply authority, and
 - (b) must be lodged personally or by post at an office of the relevant water supply authority.

Note—

Section 344 of the Act provides that it is an offence to make a false or misleading application.

- (2) The application must be lodged at least 2 working days before the day on which the work to which the application relates is proposed to be done.
- (3) An applicant must pay the fee determined by the relevant water supply authority for the issue of a plumbing permit.

163 Refusal of plumbing permits

- (1) A water supply authority may refuse to grant a plumbing permit to a person who, in its opinion, has previously done plumbing work in contravention of the Act, this Regulation or a direction under the Act or this Regulation.
- (2) A water supply authority may also refuse to grant a plumbing permit to a person while any relevant information that was not supplied with the application and that has been requested by it from the applicant is outstanding.

164 Conditions of plumbing permits

- (1) A water supply authority may grant a plumbing permit subject to conditions.
- (2) From time to time, a water supply authority:
 - (a) may vary or revoke the conditions of a plumbing permit, or
 - (b) may impose further conditions on a plumbing permit.
- (3) A person must not contravene a condition of a plumbing permit.
Maximum penalty: 20 penalty units.

165 Duration of plumbing permits

Unless sooner suspended or cancelled, a plumbing permit has effect from the time it is granted until such time as it is expressed to expire.

166 Suspension or cancellation of plumbing permits

- (1) A water supply authority may, by written notice served on the holder of a plumbing permit, suspend or cancel the permit if:
 - (a) the permit was granted on the basis of false or misleading information, or
 - (b) the holder of the permit has contravened a condition of the permit, or
 - (c) the holder of the permit has contravened the Act, this Regulation or a direction under the Act or this Regulation.
- (2) The notice must set out the reason for the suspension or cancellation.
- (3) A water supply authority may suspend or cancel a plumbing permit:
 - (a) at the request of the holder of the permit, or
 - (b) in the case of a plumbing permit, at the request of the owner of the land on which the work authorised by the permit is to be, or is being, done.

Subdivision 4 Authorisation of plumbing fittings

167 Authorisation of plumbing fittings

- (1) A water supply authority may authorise plumbing fittings for use in connection with plumbing work.
- (2) Before authorising a plumbing fitting of a particular kind, a water supply authority:
 - (a) may require:
 - (i) a fitting of that kind to be submitted to it for examination and testing, or
 - (ii) submission to it of a satisfactory result of tests of a fitting of that kind carried out by a person or body approved by it, and
 - (b) may require fittings of that kind to be manufactured under a system of quality assurance approved by it.
- (3) A water supply authority must not authorise a particular kind of plumbing fitting unless it is satisfied that it complies with the requirements of MP52—2005.
- (4) In this clause, **MP52—2005** means the document entitled *Manual of authorization procedures for plumbing and drainage products*, published by Standards Australia, seventh edition (2005).

Division 6 Special areas of operation of Essential Energy

Subdivision 1 Preliminary

168 Definitions

In this Division:

public land means:

- (a) land owned or vested in Essential Energy, or
- (b) Crown land within the meaning of the [Crown Land Management Act 2016](#).

restricted portion, in relation to the Stephens Creek and Umberumberka Creek Special Areas, means:

- (a) Stephens Creek Reservoir, and the area of land surrounding the reservoir, as shown by hatched edging on the map approved by the Minister before the commencement of this Regulation and published on the Department's website, and
- (b) Imperial Lake, and the area of land surrounding the lake, as shown by hatched edging on the map approved by the Minister before the commencement of this Regulation and published on the Department's website, and

- (c) Umberumberka Reservoir, and the area of land surrounding the reservoir, as shown by hatched edging on the map approved by the Minister before the commencement of this Regulation and published on the Department's website.

rural portion, in relation to the Stephens Creek, Umberumberka Creek and Yancowinna Creek Special Areas, means such part of those areas as is situated outside the City of Broken Hill, and includes such part of the City of Broken Hill as comprises Willyama Common.

special area means any of the following areas:

- (a) Stephens Creek Special Area,
- (b) Umberumberka Creek Special Area,
- (c) Yancowinna Creek Special Area.

Stephens Creek Special Area means that part of the area described in a proclamation under the former *Broken Hill Water and Sewerage Act 1938* published in Gazette No 8 of 19 January 1940 at page 181 as shown on the map approved by the Minister before the commencement of this Regulation, and published on the Department's website, for the purposes of this definition.

Umberumberka Creek Special Area means that part of the area described in a proclamation under the former *Broken Hill Water and Sewerage Act 1938* published in Gazette No 8 of 19 January 1940 at page 181 as shown on the map approved by the Minister before the commencement of this Regulation, and published on the Department's website, for the purposes of this definition.

Yancowinna Creek Special Area means that part of the area described in a proclamation under the former *Broken Hill Water and Sewerage Act 1938* published in Gazette No 8 of 19 January 1940 at page 181 as shown on the map approved by the Minister before the commencement of this Regulation, and published on the Department's website, for the purposes of this definition.

Subdivision 2 Special areas generally

169 Livestock farming

- (1) A person must not:
- (a) erect, maintain or use any building or structure in connection with the raising of cattle, sheep, pigs or poultry, or
 - (b) engage in any intensive agricultural activity (such as an animal feedlot),
- on land in a special area.

Maximum penalty: 20 penalty units.

(2) This clause does not apply to anything that is done in accordance with:

- (a) the consent of Essential Energy, or
- (b) a development consent in force under the *Environmental Planning and Assessment Act 1979*.

170 Sewage disposal

A person must not install, maintain or use any sewage collection, treatment or disposal system on land in a special area without the consent of Essential Energy.

Maximum penalty: 20 penalty units.

171 Notification of waterborne infectious diseases

An owner or occupier of land in a special area who becomes aware that any person, animal or property in a special area is carrying, infected with or affected by any waterborne infectious disease must notify Essential Energy of that fact within 24 hours after first becoming so aware.

Maximum penalty: 20 penalty units.

172 Slaughtering

- (1) A person must not slaughter a beast in any manner or under any circumstances or conditions so as to pollute, or cause a reasonable risk of polluting, the water supply in a special area.
- (2) A person who slaughters a beast in a special area must immediately:
 - (a) collect all blood, offal and refuse products, and
 - (b) deposit all blood, offal and refuse products in a receptacle made of metal or some other non-absorbent material, and
 - (c) remove all blood, offal and refuse products from the special area and dispose of them in a manner that avoids pollution of the water supply in that area.
- (3) A person who slaughters a beast in a special area must, as soon as practicable after doing so, thoroughly wash and clean the premises where the slaughter took place.

Maximum penalty: 20 penalty units.

173 Stock control

The owner or person in charge of any stock must ensure that the stock does not enter any public land in a special area.

Maximum penalty: 20 penalty units.

Subdivision 3 Rural portions of special areas

174 Application of Subdivision

This Subdivision applies to the rural portion of the Stephens Creek, Umberumberka Creek and Yancowinna Creek Special Areas.

175 Destruction or removal of timber

- (1) A person must not, without the consent of Essential Energy, destroy, cut, damage or remove any tree or shrub in the rural portion of a special area.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to land that is privately owned, nor does it affect the rights conferred on the holder of a licence granted under the [Forestry Act 2012](#).

176 Waste and pollutants

- (1) A person must not bring into the rural portion of a special area, or use or leave in the rural portion of a special area, any waste or pollutant.

Maximum penalty: 20 penalty units.

- (2) In this clause:

pollutant means anything that causes pollution within the meaning of the [Protection of the Environment Operations Act 1997](#).

waste has the same meaning as it has in the [Protection of the Environment Operations Act 1997](#).

177 Erection and alteration of buildings and structures

A person must not:

- (a) erect any building or structure, or
- (b) carry out any work, or
- (c) alter or extend any existing building, structure or work,

in the rural portion of a special area without the consent of Essential Energy.

Maximum penalty: 20 penalty units.

178 Pesticides and pest control

- (1) A person must not:

- (a) bring into, or use or keep in, the rural portion of a special area any pesticide, herbicide or other toxic material, or

- (b) take steps to control or eradicate by the use of pesticides, herbicides or other toxic materials any feral animal, animal pest or weed in the rural portion of a special area, without the consent of Essential Energy.

Maximum penalty: 20 penalty units.

- (2) In this clause:

herbicide means any substance that is capable of destroying plants or preventing the spread of plants.

pesticide has the same meaning as it has in the [Pesticides Act 1999](#).

Subdivision 4 Restricted portions of special areas

179 Application of Subdivision

This Subdivision applies to the restricted portion of the Stephens Creek and Umberumberka Creek Special Areas.

180 Entry

A person must not enter or remain in the restricted portion of a special area without the consent of Essential Energy.

Maximum penalty: 10 penalty units.

181 Fishing

A person must not fish in any waters in the restricted portion of a special area without the consent of Essential Energy.

Maximum penalty: 10 penalty units.

182 Fees and charges

- (1) Essential Energy may from time to time determine the fees and charges payable in respect of the entry of persons and vehicles into the restricted portion of a special area, either for tours or for recreational purposes.

- (2) An authorised officer may refuse to allow a person to enter the restricted portion of a special area if the person fails to pay any such fee or charge.

183 Prohibited conduct

A person must not:

- (a) destroy, capture, injure or annoy an animal in the restricted portion of a special area,
or

- (b) interfere with an animal, or interfere with the habitat of an animal, in the restricted

portion of a special area, or

- (c) bury a human or animal body in the restricted portion of a special area, or
- (d) swim or wash in any waters in the restricted portion of a special area, or
- (e) cause any animal, animal matter, plant or plant matter to enter or remain in any waters in the restricted portion of a special area, or
- (f) drive, row, sail or paddle any boat or other waterborne craft on any waters in the restricted portion of a special area, or
- (g) remove or damage a plant, shrub or tree growing in the restricted portion of a special area, or
- (h) drive or ride a vehicle or ride or lead an animal into or on the restricted portion of a special area, or
- (i) bring into or have in the person's possession in the restricted portion of a special area a firearm, imitation firearm or prohibited weapon (within the meaning of the [Firearms Act 1996](#) or the [Weapons Prohibition Act 1998](#)) unless the person is a police officer on duty, or
- (j) land an aircraft (including an ultra-light aircraft, hang-glider or balloon) on the restricted portion of a special area, or
- (k) sell or offer for sale any goods on or by any public road in the restricted portion of a special area,

without the consent of Essential Energy.

Maximum penalty: 10 penalty units.

184 Gates not to be opened

A person must not:

- (a) remove anything that bars entry to public land in the restricted portion of a special area, or
- (b) open any gate to any public land in the restricted portion of a special area,

without the consent of Essential Energy.

Maximum penalty: 10 penalty units.

185 Camping and picnicking

- (1) Essential Energy may reserve any portion of public land in the restricted portion of a special area for camping or picnicking by means of signs displayed on or adjacent to

the portion.

- (2) Essential Energy may impose conditions, including conditions requiring the payment of fees, subject to which a reserved portion of land may be used for camping or picnicking.
- (3) A person must not camp or picnic on public land in the restricted portion of a special area otherwise than:
 - (a) in a place reserved for that purpose, and
 - (b) in accordance with any conditions subject to which that place may be so used.

Maximum penalty: 10 penalty units.

- (4) In this clause, **camp** means reside temporarily, whether or not in a tent, caravan, cabin or other structure.

186 Fires

A person must not:

- (a) light a fire in the restricted portion of a special area otherwise than in a fireplace approved by Essential Energy, or
- (b) do anything in the restricted portion of a special area that may cause fire to spread beyond such a fireplace.

Maximum penalty: 10 penalty units.

Subdivision 5 Miscellaneous

187 Consents may be conditional, and may be varied and revoked

A consent given by Essential Energy for the purposes of this Division is to be in writing, may be given unconditionally or subject to conditions and may be varied or revoked by it (by written notice served on the holder of the consent) at any time and for any reason.

188 Investigation of suspected contraventions

- (1) An authorised officer who has reason to believe that a person in a special area has in his or her possession or control anything that, in the officer's opinion, has been, is being or is about to be used in connection with a contravention of this Division may request the person to do either or both of the following:
 - (a) to surrender any such thing to the authorised officer,
 - (b) to make available for inspection by the authorised officer any vehicle or receptacle in which the officer suspects any such thing to be concealed.

(2) If a person fails to comply with the request, the authorised officer may direct the person to leave the special area.

(3) A person to whom such a direction is given must immediately comply with the direction.

Maximum penalty: 20 penalty units.

189 Notice by public agencies

For the purposes of section 304 (1) of the Act, the notice to be given to Essential Energy of the proposed exercise of a function by a public agency in relation to land in a special area:

(a) must be in writing, and

(b) must be sent by post to or lodged at any of its offices, and

(c) must contain a full description of the proposed function, including any associated activities, and a statement of the objectives of the proposed function, and

(d) must be given at least 28 days before the function is proposed to be exercised.

Division 7 Finance generally

Subdivision 1 Preliminary

190 Application

This Division applies to and in respect of the following water supply authorities and to and in respect of matters arising within the areas of operations of those authorities:

(a) Essential Energy,

(b) Central Coast Council,

(c) Cobar Water Board,

(d) Water NSW,

(e) the Sydney Olympic Park Authority.

191 Definitions

In this Part, **land** means:

(a) a parcel within the meaning of the [Strata Schemes Development Act 2015](#), or

(b) an existing lot within the meaning of the [Conveyancing Act 1919](#).

Subdivision 2 Service charges and other charges

192 Fees and charges other than service charges

The fees and charges (other than service charges) that a water supply authority may, under section 310 (2) of the Act, impose for goods supplied, or for services provided, are to be determined by resolution.

193 Classification of land

For the purposes of section 313 of the Act, a water supply authority may classify land for the purpose of levying service charges according to one or more of the following factors:

- (a) the purpose for which the land is actually being used,
- (b) the intensity with which the land is being used for that purpose,
- (c) the purposes for which the land is capable of being used,
- (d) the nature and extent of any water supply, sewerage or drainage systems connected to, or available for connection to, the land.

194 Basis of levying service charges

(1) For the purposes of section 314 of the Act, a water supply authority may levy service charges according to one or more of the following bases:

- (a) on the basis of the availability of the service (the **access component**),
- (b) on the basis of the usage of the service (the **usage component**).

(2) The access component may vary according to any of the following:

- (a) the size of the water meter registering water supply to the land,
- (b) the nominal size of the water supply service pipe supplying water to the land,
- (c) the cost of providing the service, as assessed by the water supply authority,
- (d) the classification of the land, as determined by the water supply authority under this Subdivision.

(3) The usage component may vary:

- (a) in the case of a water service charge, according to the volume of water supplied to the land concerned, or
- (b) in the case of any other service charge, according to the degree of use of the service, as assessed by the water supply authority.

(4) For the purposes of subclause (2) (b), the nominal size of a water supply service pipe

supplying water to land is:

- (a) the nominal size of the pipe at the point where it joins the water meter registering water supply to the land, or
 - (b) if there is no such water meter the nominal size of the pipe at the point where it joins the water supply authority's water main.
- (5) In this clause, **nominal size** has the same meaning as **nominal size (DN)** has in the document entitled AS/NZS 3500:2003, *Plumbing and Drainage*, as in force from time to time, published by Standards Australia.

195 Method of levying service charge on dwelling under company title

- (1) For the purposes of this Regulation:
- (a) a person who, because of the ownership of shares in a company, is entitled to occupy a dwelling in a building containing 2 or more such dwellings is taken to be the owner of the land comprising the dwelling, and
 - (b) the service charge for the dwelling is to be an amount that bears the same proportion to the service charge for the building as the number of shares in the company owned by the person bears to the total number of shares issued by the company.
- (2) The secretary of such a company must notify the water supply authority of:
- (a) the names and addresses of all owners of shares in the company and of the number of shares held by each owner, and
 - (b) changes in ownership of any shares in the company.
- (3) A service charge is not payable by the company to the extent to which it is payable by the owners of shares in the company.

196 Determination of service charges

A determination by a water supply authority under section 315 (1) of the Act is to be made by resolution.

197 Approval of service charge determinations

- (1) A water supply authority must not levy any service charges in any charging year unless:
- (a) a strategic business plan for the water supply authority or integrated water cycle management strategy has been approved by the Minister within the period of 4 years before the proposed service charges, and
 - (b) both a strategic business plan for the water supply authority and integrated water

cycle management strategy has been approved by the Minister within the period of 8 years before the proposed service charges, and

(c) the water supply authority has furnished the Minister with a report, that is in accordance with any requirements of the Minister, relating to the water supply authority's performance of its functions during the previous charging year.

(2) Subclause (1) (b) does not apply in respect of a charging year commencing before 1 December 2020.

(3) In this clause:

integrated water cycle management strategy—see clause 199.

strategic business plan—see clause 198.

198 Strategic business plans

(1) A water supply authority may apply to the Minister for approval of a strategic business plan with respect to the exercise of its functions under the Act.

(2) The Minister may approve the business plan in the form in which it has been submitted for approval, may approve the business plan with specified modifications or may refuse to approve the business plan.

(3) A strategic business plan is not to be approved under this clause unless it complies with the requirements of *Strategic Business Plans for Water Supply and Sewerage Schemes: Guidelines for Preparation* published by the New South Wales Government and as in force from time to time.

199 Integrated water cycle management strategy

(1) A water supply authority may apply to the Minister for approval of an integrated water cycle management strategy with respect to the exercise of its functions under the Act.

(2) The Minister may approve the integrated water cycle management strategy in the form in which it has been submitted for approval, may approve the management strategy with specified modifications or may refuse to approve the management strategy.

(3) An integrated water cycle management strategy is not to be approved under this clause unless it addresses all of the matters required by the *Integrated Water Cycle Management Strategy—Check List* published on the Department's website and as in force from time to time.

200 Payment of service charges and other charges

Payment to a water supply authority of a service charge or other charge:

(a) is due within the time, and

(b) may be made in any manner,

notified by the water supply authority when giving notice of the service charge or other charge.

201 Payment by instalments

(1) A water supply authority may notify a person liable to pay service charges levied, or other charges imposed, that payment of the service charges or other charges may be made to the water supply authority by a stated number of instalments of specified amounts.

(2) If there is a failure to make a payment in accordance with the notification, the total unpaid balance may be treated by the water supply authority as an overdue amount of service charges or other charges even if payment by instalments had commenced.

202 General power to defer or waive payment of service charges or other charges or fees

(1) A water supply authority may, if of the opinion that reasonable cause has been shown:

(a) defer payment of a service charge, or any other charge or fee, on such conditions as it thinks fit, or

(b) waive such a payment or any part of it.

(2) A water supply authority may establish an account from which to fund any such deferral or waiver.

203 Adjustment of service charge

(1) If a service charge has been levied on land on the basis of a classification made by a water supply authority under this Subdivision and the water supply authority later decides that the classification was incorrect, it must adjust the service charge according to the correct classification.

(2) If a service charge has been levied, or has been adjusted under subclause (1), on land on the basis of a classification made by a water supply authority under this Subdivision and the land later ceases to belong to that class, the water supply authority must adjust the service charge according to the new classification, on and from the date of the change of classification.

(3) If the water supply authority has not acted under subclause (1) or (2) and an application for it to do so is made to the water supply authority in writing stating the grounds of the application, the water supply authority:

(a) may act under subclause (1) or (2) or may refuse to do so, and

(b) must give the applicant written notice of its decision.

(4) If a service charge is adjusted under this clause, the water supply authority:

- (a) must give written notice of the adjustment to the person liable to pay the service charge, and
- (b) may recover any increase as if it were part of the service charge, even if an objection or appeal has been lodged but not determined, and
- (c) must refund any amount by which a service charge already paid has been decreased, or credit the amount towards payment of any amount then payable by the person liable to pay the service charge to the water supply authority.

204 Objection to levying of service charge

- (1) If a service charge is levied on land on the basis of a classification made by a water supply authority under this Subdivision, the person liable to pay the service charge may, within one month after being served with notice of the levying of the service charge, object to the service charge.
- (2) An objection under this clause may be made only on the ground that the classification of the land according to which the service charge was levied was incorrect.

205 Objection to adjustment of service charge

- (1) If an adjustment results in a service charge being increased, the person liable to pay the amount of the increase may, within one month after being given notice of the increase, object to the adjustment.
- (2) An objection under this clause may be made only on the ground that the classification of the land according to which the service charge was adjusted was incorrect.

206 Objection to refusal to adjust service charge

- (1) If an application is made to a water supply authority for an adjustment of a service charge and the water supply authority:
 - (a) refuses to adjust the service charge, or
 - (b) refuses to adjust the service charge in the manner sought in the application,the applicant may, within one month after being notified of the refusal, object to the refusal.
- (2) An objection under this clause may be made only on the ground that the refusal by the water supply authority was incorrect.

207 Objections generally

- (1) An objection is to be made by lodging with the water supply authority, or by serving on it by post, a written statement of the ground for the objection and the reasons why the objector believes the ground exists.
- (2) A water supply authority:
 - (a) may allow, or disallow, an objection, and
 - (b) must give the objector written notice of its decision on the objection.

Subdivision 3 Drainage areas

208 Notice of drainage area

- (1) On the declaration under section 308 (2) of the Act of a drainage area for a water supply authority, the water supply authority must deposit a map of the drainage area in its office.
- (2) The water supply authority must make the map available for inspection at reasonable times during its ordinary office hours.
- (3) The water supply authority must serve on each owner of land in the drainage area, personally or by post at the address of the owner last known to it, a notice to the effect that:
 - (a) the drainage area has been declared, and
 - (b) a map of the drainage area may be inspected at a specified place or specified places, and
 - (c) drainage service charges are to be levied on land in the drainage area within a specified time, and
 - (d) an objection to inclusion of the owner's land in the drainage area may be lodged with the water supply authority, but only on the ground that surface or run-off water could not drain from the objector's land into the drainage area, and
 - (e) an objection must be in writing and must be lodged with the water supply authority before a specified date (being a date that is not earlier than 14 days after service of the notice), and
 - (f) an objection will be referred by the water supply authority to an adjudicator for determination, and
 - (g) an objector is not entitled to appear, or be represented, before the adjudicator unless the adjudicator so orders.

(4) The water supply authority:

- (a) must appoint an independent person (that is, a person who is not subject to its direction or control) to be the adjudicator with respect to objections arising from the declaration of a particular drainage area, and
- (b) must refer all duly lodged objections to the adjudicator, and
- (c) must serve notice of the adjudicator's decision on each objection on the objector concerned, either personally or by sending it by post to the objector's address last known to the water supply authority.

Subdivision 4 Miscellaneous

209 Cutting off or restricting supply

A water supply authority may cut off or restrict the supply of water to land in any of the following circumstances:

- (a) if any service charges or other charges relating to the land are unpaid,
- (b) if the person requiring a supply of water:
 - (i) fails to do anything that, under the Act or this Regulation, is required to be done to prevent waste, misuse, undue consumption, backflow or contamination of the water supplied by the water supply authority, or
 - (ii) fails to comply with a notice under clause 141 regulating or restricting the use of water, or
 - (iii) fails to comply with its conditions of supply, or
 - (iv) fails to comply with its requirements in relation to the installation, repair or alteration of a meter for measuring water, or
 - (v) fails to comply with its requirements, or any requirements of the *Plumbing and Drainage Act 2011* or the regulations made under that Act, in relation to the installation, repair or alteration of water or sewerage connections, plumbing fittings or appliances connected, or intended to be connected, directly or indirectly to a water main or sewer main,
- (c) if it is necessary to do so:
 - (i) in order to repair or alter any connections, plumbing fittings or appliances referred to in paragraph (b) (v), or
 - (ii) in order to effect repairs or to clean a water main or sewer main, or
 - (iii) in order to conserve supplies in time of drought or other emergency, or

(iv) because of an accident.

210 Service of notices

- (1) A notice under this Part to a Public Service agency may be served on the head of the agency.
- (2) A notice under this Part to a statutory corporation may be served:
 - (a) by leaving it at the corporation's registered office or principal place of business with a person who appears to be employed there and to be at least 16 years old, or
 - (b) in any manner authorised by or under the Act by which the corporation is constituted.
- (3) A notice under this Part to a person liable for payment of a service charge or other charge, or to a person who is owner or occupier of land or a building, may be served:
 - (a) personally, or
 - (b) by leaving it, at the person's residential or business address, with a person who appears to be employed or to reside there and to be at least 16 years old, or
 - (c) by sending it by post to the person's residential or business address last known to the water supply authority serving the notice, or
 - (d) by affixing it to a conspicuous part of the land or building.
- (4) A notice under this Part may be served on a person who appears to be absent from the State, and who has authorised service on an agent, by serving it on the agent of the person as if the agent were the person to be served.
- (5) If a notice relates to unoccupied land and the address of the owner is not known to the water supply authority serving the notice, it may be served by an advertisement that:
 - (a) is published in a newspaper circulating in its area, and
 - (b) states the name of the owner of the land, if known to it, and
 - (c) if the notice is notice of a service charge, states its amount, the period to which the charge relates and that a detailed notice of the service charge may be obtained at its offices, and
 - (d) states that the advertisement operates as service of the notice.
- (6) It is a sufficient description of the addressee of a notice to be served if the notice specifies "the owner", "the occupier" or other appropriate description.

211 Recording of service charge

- (1) A water supply authority must keep records relating to each service charge as required by the Minister and must keep the records in a manner approved by the Minister.
- (2) An amendment of the records kept under this clause may be made:
 - (a) so as to insert the name of a person who claims to be, and is, entitled to be recorded as owner or occupier, or
 - (b) so as to insert the name of a person to whom an account for a service charge should have been rendered or who has, since the levying of a service charge, become liable to pay it, or
 - (c) so as to omit the name of a person whose name should not have been recorded, or
 - (d) so as to vary the amount of a service charge, whether as a result of an error in recording or notifying it, as a result of an adjustment or objection or as a result of an appeal, or
 - (e) so as to insert particulars of land that should have been the subject of a service charge, or
 - (f) so as to make such other corrections as will ensure conformity of the records with the Act.
- (3) A liability to make a payment as a result of an amendment accrues on the making of the amendment, but the payment is not overdue if made within one month after written notice of the amendment, and of the resulting liability, has been given to the person liable.

Division 8 Concessions for eligible pensioners and others

Subdivision 1 Preliminary

212 Application

This Division (Subdivision 5 excepted) applies to and in respect of the following water supply authorities:

- (a) Essential Energy,
- (b) Cobar Water Board.

213 Definitions

- (1) In this Division:

eligible pensioner, in relation to a dwelling, means a person who occupies the dwelling as his or her sole or principal residence and:

- (a) who receives a pension, benefit or allowance under Chapter 2 of the *Social Security Act 1991* of the Commonwealth, or a service pension under Part III of the *Veterans' Entitlements Act 1986* of the Commonwealth, and who is the holder of a pensioner concession card issued by or on behalf of the Commonwealth, or
- (b) who receives a pension from the Commonwealth Department of Veterans' Affairs as:
 - (i) the surviving spouse (including widow or widower) of a member of the Australian Defence or Peacekeeping Forces, or
 - (ii) the unmarried mother of a deceased unmarried member of either of those Forces, or
 - (iii) the widowed mother of a deceased unmarried member of either of those Forces,and does not have income and assets that would prevent the person from being granted a pensioner concession card (assuming he or she was eligible for such a card), or
- (c) who receives a special rate of pension under section 24 of the *Veterans' Entitlements Act 1986* of the Commonwealth.

Gazetted amount means an amount specified by the Minister, by order published in the Gazette, for the purposes of this Division.

instalment, in relation to a service charge, means an instalment payable under clause 201 in respect of the charge.

nominal amount, in relation to the service charges payable for any land, means the lesser of the following amounts:

- (a) an amount equal to half of all service charges for that land for the current charging year,
- (b) an amount equal to:
 - (i) except as provided by subparagraph (ii), the whole of the Gazetted amount, or
 - (ii) if the only service charge payable for that land is a water service charge, half of the Gazetted amount.

service charge includes an instalment of a service charge.

water service charge includes a drainage service charge levied in conjunction with

the water service charge.

- (2) In this Division, a reference to the time at which a service charge is levied is, in the case of an instalment of the service charge, a reference to the time at which the instalment is due for payment.

Subdivision 2 Reductions for pensioners

214 When entitlement arises

A water supply authority is to reduce a service charge under this Subdivision if:

- (a) an application for the reduction is made to it by an eligible pensioner, and
- (b) as at the day on which the service charge is levied or imposed, it is satisfied that the eligible pensioner is solely or jointly liable for payment of the charge, and
- (c) sufficient evidence is produced to it to enable the reduction to be calculated.

215 Reduction of total charges

An eligible pensioner who is liable for a service charge for any land for any charging year is required to pay, for all service charges payable for that land for that year, no more than an amount calculated by dividing the nominal amount in relation to those charges by the number of persons liable for those charges.

216 Reduction of instalments for charges

An eligible pensioner who is liable for an instalment of a service charge for any land for any charging year is required to pay, as an instalment for all service charges payable for that land for that year, no more than an amount calculated by:

- (a) dividing the nominal amount in relation to those charges by the number of persons liable for those charges, and
- (b) dividing the result of that division by the number of instalments payable in relation to those charges.

217 Application by person who becomes eligible pensioner after charge is levied

If a person becomes an eligible pensioner after the day on which a service charge is levied or imposed, the person is entitled to a reduction of the charge proportionate to the number of days remaining after the day on which the person becomes an eligible pensioner in the charging year for which the charge is levied or imposed.

Subdivision 3 Other reductions

218 Extension of reduction to avoid hardship

- (1) If the Minister considers it proper to do so to avoid hardship, the Minister may, by

order, direct that:

(a) a person specified in the order:

- (i) who occupies a dwelling as his or her sole or principal residence together with an eligible pensioner for whom the dwelling is his or her sole or principal residence, and
- (ii) who is jointly liable with that eligible pensioner or with that eligible pensioner and one or more other persons for a service charge for the land on which that dwelling is situated, and
- (iii) who would not otherwise be entitled to a reduction of the service charge under this Division, or

(b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a),

is taken, for the purposes of this Division, to be or to have been an eligible pensioner.

(2) If the Minister considers it proper to do so to avoid hardship, the Minister may, by order, direct that:

(a) an eligible pensioner specified in the order who, although not liable, or although not liable jointly with one or more persons, to the whole of the service charges for the land on which that dwelling is situated:

- (i) has paid the whole of those charges for such period as, in the opinion of the Minister, warrants the making of such an order, or
- (ii) is, in the opinion of the Minister, likely to pay the whole of those charges in such circumstances as, in the opinion of the Minister, warrant the making of such an order, or

(b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a),

is taken, for the purposes of this Division, to be or to have been the person solely liable in respect of the land on which the dwelling is situated.

(3) An order under this clause takes effect on the day that it is made or on such earlier or later day as is specified in the order.

Subdivision 4 General provisions concerning reductions

219 Making of application

An application to a water supply authority under this Division must be made to it within the time, and in the manner, determined by the water supply authority.

Note—

Section 344 of the Act provides that it is an offence to make a false or misleading application.

220 Refund of certain overpayments

If a person:

- (a) has paid in full a service charge for a charging year, and
 - (b) would have been entitled to a reduction of the service charge if it had been paid by instalments, and
 - (c) applies to the water supply authority for a refund of the amount of the reduction,
- the water supply authority must make the refund or credit the amount towards payment of any amount then payable in relation to the land concerned by the person liable to pay the amount to the water supply authority.

221 Exemption from liability

An eligible pensioner is not liable for a service charge beyond the amount of his or her liability as reduced in accordance with this Division.

222 Recovery of amount of reduction

A water supply authority is not entitled to repayment of an amount by which a service charge is reduced under this Division unless the reduction was made on the basis of a false statement in the application for the reduction.

Subdivision 5 Water supply authorities that are also local councils

223 Central Coast Council

- (1) The provisions of the [Local Government Act 1993](#) (and the regulations under that Act) that apply to the reduction and postponement of rates and charges under that Act apply to the reduction and postponement of service charges and other charges levied or imposed by Central Coast Council under the [Water Management Act 2000](#).
- (2) Subclause (1) does not extend to the requirement, under section 581 of the [Local Government Act 1993](#), for councils to be reimbursed for a proportion of amounts written off under that Act.

Division 9 Miscellaneous

224 Supply of plans

On application by an owner or an owner's agent, a water supply authority must issue a plan showing the point of connection to its sewerage system of any land.

225 Information to accompany applications under section 305

For the purposes of section 305 (2) of the Act, an application for a certificate of compliance for development must be accompanied:

- (a) by information as to whether or not the development is the subject of development consent or a complying development certificate under the *Environmental Planning and Assessment Act 1979*, and
- (b) if it is so subject, by a copy of the development consent or complying development certificate.

226 Development that may be subject to section 306 requirements

For the purposes of section 306 (1) of the Act, the following kinds of development are prescribed as development to which that section applies:

- (a) the erection, enlargement or extension of a building or the placing or relocating of a building on land,
- (b) the subdivision of land,
- (c) the change of use of land or of any building situated on the land.

227 Members of Cobar Water Board

For the purposes of clause 22 (2) (b) (ii) of Schedule 5 to the Act, Peak Gold Mines Pty Ltd is prescribed as a mining company that can nominate a member of the Cobar Water Board in place of Goldcorp Asia Pacific Pty Ltd.

Part 10 Metering equipment

Division 1 Preliminary

228 Interpretation

(1) In this Part:

application day for the mandatory metering equipment condition imposed on an authority means the day that condition applies to the authority.

approved manner means the manner approved by the Minister and notified on:

- (a) the Department's website, or
- (b) if approved by the Minister, on a publicly available website maintained by WaterNSW.

approved work means a water supply work for which a water supply work approval has been granted.

AS 4747 means Australian Standard AS 4747—2013, *Meters for non-urban water supply*, as in force from time to time.

authority means a water supply work approval, an access licence or a licence or other entitlement under the former 1912 Act.

mandatory metering equipment condition means a condition imposed on a water supply work approval by section 101A (1) of the Act or on another authority under clause 229.

open channel means a channel or conduit used for conveying water that is not enclosed.

- (2) For the purposes of this Part, an authority applies to a work if:
- (a) the authority authorises the use of the work, or
 - (b) the work is or may be used to take water that is permitted to be taken under the authority.

Division 2 Metering equipment conditions

229 Mandatory metering equipment conditions

- (1) For the purposes of section 115 of the Act, it is a mandatory condition of an access licence that metering equipment is installed, used and properly maintained in connection with a water supply work that is or may be used to take water under the licence if:
- (a) the work is exempt from the requirement for a water supply work approval because of section 4.41 or 5.23 of the *Environmental Planning and Assessment Act 1979* or because it is part of a transitional Part 3A project under that Act, or
 - (b) the work is used for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*.
- (2) For the purposes of section 115A of the Act, it is a mandatory condition of a licence or other entitlement under the former 1912 Act that metering equipment is installed, used and properly maintained in connection with a work that is or may be used to take water under the licence or entitlement.
- (3) The holder of an authority is taken to have complied with a particular aspect of the condition imposed by this clause if the holder has complied with the applicable requirements (if any) set out in this Regulation.

230 Temporary exemptions from mandatory metering equipment condition

- (1) The mandatory metering equipment condition is not required to be complied with in

respect of the following works before the day specified below for the works:

- (a) for a work that takes or may be used to take water from a water source to which any of the following water sharing plans (as in force on the commencement of this clause) apply, 1 December 2020:

Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the Castlereagh River Unregulated and Alluvial Water Sources 2011,

Water Sharing Plan for the Gwydir Regulated River Water Source 2016,

Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011,

Water Sharing Plan for the Lower Gwydir Groundwater Source 2003,

Water Sharing Plan for the Lower Macquarie Groundwater Sources 2003,

Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016,

Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the Namoi Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2011,

Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009,

Water Sharing Plan for the NSW Border Rivers Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008,

Water Sharing Plan for the NSW Great Artesian Basin Shallow Groundwater Sources 2011,

Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock

Groundwater Sources 2011,

Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011,

Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010,

Water Sharing Plan for the Upper and Lower Namoi Groundwater Sources 2003,

Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016,

- (b) for a work that takes or may be used to take water from a water source to which of any of the following water sharing plans (as in force on the commencement of this clause) apply, 1 December 2021:

Water Sharing Plan for the Belubula Regulated River Water Source 2012,

Water Sharing Plan for the Lachlan Regulated River Water Source 2016,

Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the Lower Lachlan Groundwater Source 2003,

Water Sharing Plan for the Lower Murray Groundwater Source,

Water Sharing Plan for the Lower Murray Shallow Groundwater Source 2012,

Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011,

Water Sharing Plan for the Lower Murrumbidgee Groundwater Sources 2003,

Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources 2011,

Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2016,

Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012,

Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016,

- (c) for a work that takes or may be used to take water from a water source to which any of the following water sharing plans (as in force on the commencement of this

clause) apply, 1 December 2023:

Water Sharing Plan for the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources 2011,

Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008,

Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Central Coast Unregulated Water Sources 2009,

Water Sharing Plan for the Clarence River Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Clyde River Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Coffs Harbour Area Unregulated and Alluvial Water Sources 2009,

Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Greater Metropolitan Region Groundwater Sources 2011,

Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2011,

Water Sharing Plan for the Hunter Regulated River Water Source 2016,

Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2009,

Water Sharing Plan for the Lower North Coast Unregulated and Alluvial Water Sources 2009,

Water Sharing Plan for the Macleay Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Murrumbidgee Area Unregulated and Alluvial Water Sources 2010,

Water Sharing Plan for the Nambucca Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources

2016,

Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Sources 2016,

Water Sharing Plan for the Paterson Regulated River Water Source 2007,

Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010,

Water Sharing Plan for the Snowy Genoa Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the South Coast Groundwater Sources 2016,

Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010,

Water Sharing Plan for the Tross River Unregulated and Alluvial Water Sources 2016,

Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2010.

- (2) The mandatory metering equipment condition is not required to be complied with in respect of the following works that are or may be used to take water under a licence or entitlement under the former 1912 Act before the day specified below for the works:
 - (a) for a work authorised under a licence or entitlement with a number that begins with 80, 85 or 90, 1 December 2020,
 - (b) for a work authorised under a licence or entitlement with a number that begins with 40, 50, 57, 60 or 70, 1 December 2021,
 - (c) for a work authorised under a licence or entitlement with a number that begins with 10, 20 or 30, 1 December 2023,
- (3) Despite subclauses (1) and (2), if a work is a pump for surface water that is 500 mm or greater or is the subject of an authority that applies to a work of that kind, the mandatory metering equipment condition is required to be complied with on and from 1 December 2019.
- (4) An exemption under this clause ceases to apply to a work if:
 - (a) it was a condition of an authority applying to the work, as in force on 1 April 2019, that an extraction measurement device, a flow measurement device or other metering equipment be installed in connection with the work and the device or

equipment is replaced, or first installed, on or after 1 April 2019, or

- (b) it is a condition of an authority applying to the work, issued after 1 April 2019, that an extraction measurement device, a flow measurement device or other metering equipment be installed in connection with the work and the device or equipment is installed on or after 1 April 2019.

Note—

An exemption under this clause does not prevent a person:

- (a) from having to comply with a direction given under section 326 of the Act, or
- (b) from complying with a condition relating to metering equipment imposed under a provision of the Act other than section 101A.

231 Permanent exemptions from mandatory metering equipment condition

- (1) The mandatory metering equipment condition is not required to be complied with in respect of a work to which an authority applies if any of the following circumstances apply:
 - (a) an exemption is granted by the Minister under clause 233 and the exemption has not been revoked,
 - (b) the work is a pump for surface water and the use of 1 pump of not more than 99 mm is permitted under the authority,
 - (c) the work is a water bore for groundwater and the use of 1 water bore with a diameter of not more than 199 mm is permitted under the authority or, if the authority does not specify the diameter, the water bore has a diameter of not more than 199 mm,
 - (d) the work is solely used to take water pursuant to a basic landholder right,
 - (e) in the case of an approved work, the work is used only in circumstances where the holder of the approval is exempt from the requirement to hold an access licence for the taking of water using the work,
 - (f) the work is solely used to take water under a floodplain harvesting (regulated river) access licence or a floodplain harvesting (unregulated river) access licence.
- (2) The mandatory metering equipment condition is not required to be complied with in respect of 2 or more pumps for surface water to which the same authority applies, or that are situated on the same landholding and to which different authorities apply, if one of the following applies:
 - (a) there are no more than 2 pumps, and the use of pumps of not more than 74 mm is permitted by the applicable authorities,

- (b) there are no more than 3 pumps, and the use of pumps of not more than 49 mm is permitted by the applicable authorities,
 - (c) there are no more than 4 pumps, and the use of pumps of not more than 39 mm is permitted by the applicable authorities.
- (3) The mandatory metering equipment condition is not required to be complied with in respect of 2 or more water bores for groundwater to which the same authority applies, or that are situated on the same landholding and to which 2 or more authorities apply, if one of the following applies:
- (a) there are no more than 2 water bores and the use of water bores having a diameter of not more than 159 mm is permitted by the applicable authorities or, if an applicable authority does not specify the diameter, the diameter of the water bore is not more than that size,
 - (b) there are no more than 3 water bores and the use of water bores having a diameter of not more than 129 mm is permitted by the applicable authorities or, if an applicable authority does not specify the diameter, the diameter of the water bore is not more than that size,
 - (c) there are no more than 4 water bores and the use of water bores having a diameter of not more than 119 mm is permitted by the applicable authorities or, if an applicable authority does not specify the diameter, the diameter of the water bore is not more than that size.
- (4) Subclauses (1) (b) and (c), (2) and (3) do not apply to a water supply work if:
- (a) it was a condition of the authority that applies to the work, as in force on the commencement of this clause, that an extraction measurement device, a flow measurement device or other metering equipment be installed in connection with the work, or
 - (b) the work is authorised to take water from a water source described in Schedule 9, or
 - (c) it is a condition of an authority that applies to the work, issued after the commencement of this clause, that metering equipment be installed in connection with the work.
- (5) Subclauses (2) and (3) do not apply to a water supply work if it is a work that is authorised to be used only if another work to which the same authority applies is not capable of being used because of a mechanical or electrical failure.

Note—

An exemption under this clause does not prevent a person:

- (a) from having to comply with a direction given under section 326 of the Act, or
- (b) from complying with a condition relating to metering equipment imposed under a provision of the Act other than section 101A.

232 Inactive water supply works

- (1) This clause commences on 1 April 2019.
- (2) The mandatory metering condition is not required to be complied with in respect of an approved work or a work that is or may be used to take water under an access licence if:
 - (a) the work is or may be used to take surface water, and
 - (b) the approval or access licence under which the work is or may be used to take water indicates that the work is inactive, and
 - (c) the approval or access licence is subject to conditions that prohibit the work from being used to take water while it is inactive and from being capable of taking water from a water source while it is inactive, and
 - (d) all conditions applying to an inactive work under that approval or access licence are complied with.

233 Exemptions by Minister

- (1) The Minister may, at the Minister's discretion or on the application of the holder of an authority, exempt the holder, or a class of holders, from complying with the mandatory metering equipment condition.
- (2) The Minister may grant an exemption only if the Minister is satisfied that it is not possible for water taken using the work to be measured by metering equipment.
- (3) An exemption may be unconditional or granted subject to conditions.
- (4) The Minister is to notify an exemption, or the revocation or amendment of an exemption, for a class of holders on the Department's website.
- (5) The Minister may revoke or amend an exemption at any time.

234 Existing metering conditions

- (1) For the purposes of this clause, an ***inconsistent metering condition*** is a condition of an authority that:
 - (a) relates to an extraction measurement device, a flow measurement device or other metering equipment for a work to which the authority applies that is subject to a mandatory metering equipment condition, and

(b) is wholly or partly inconsistent with the mandatory metering equipment condition or any requirements for metering equipment under this Regulation.

(2) An authority that is subject to an inconsistent metering condition is taken to be amended by removing the condition on the application day.

Division 3 Metering equipment standards

235 Mandatory requirements for metering equipment

The requirements set out in Schedule 8 are applicable requirements for the purposes of section 101A (2) of the Act and clause 229 (3).

236 Duly qualified persons

(1) In this clause:

certified meter installer means a person who holds a current certification as a meter installer issued by Irrigation Australia Ltd.

certified practising hydrographer means a person who is listed as a certified practising hydrographer in the register of certified professionals kept by the Australian Hydrographers Association.

maintenance specifications means the specifications made under clause 2 (4) of Schedule 8.

metering system designer means a person who:

- (a) holds a current certification as an irrigation designer or irrigation professional issued by Irrigation Australia Ltd, or
- (b) holds a vocational education and training qualification in irrigation management, the installation of irrigation equipment or the design of irrigation equipment issued by a registered training organisation, or
- (c) holds an engineering qualification issued by an Australian university and who has not less than 2 years experience in designing water management systems.

registered training organisation means a training organisation that is listed as a registered training organisation on the National Register established under the [National Vocational Education and Training Regulator Act 2011](#) of the Commonwealth.

telemetry technician means a person who:

- (a) holds a current electrical licence, or
- (b) holds a communications engineering qualification issued by an Australian university, or

- (c) holds a telecommunications engineering qualification issued by an Australian university, or
 - (d) holds a vocational education and training qualification in radio communications or in electronics and communications issued by a registered training organisation.
- (2) For the purposes of the definition of **duly qualified person** in the Dictionary to the Act, a person has the prescribed qualifications, skills and experience to carry out work in connection with metering equipment if the person is specified for the work by this clause.
- (3) The following persons are specified for designing metering equipment installed in connection with an open channel:
- (a) a certified meter installer,
 - (b) a metering system designer.
- (4) A certified meter installer is specified for installing metering equipment other than telemetry.
- (5) The following persons are specified for installing, maintaining (including maintenance activities under the maintenance specifications) and repairing telemetry:
- (a) a certified meter installer,
 - (b) a telemetry technician,
 - (c) a certified practising hydrographer.
- (6) A certified meter installer who has experience in using intrusive and non-intrusive flow measurement testing equipment is specified for validating metering equipment (other than equipment installed in connection with an open channel).
- (7) The following persons are specified for validating metering equipment installed in connection with an open channel:
- (a) a certified meter installer who has experience in using intrusive and non-intrusive flow measurement testing equipment,
 - (b) a certified practising hydrographer who is trained in the use of testing equipment.
- (8) A certified meter installer who has experience in using intrusive and non-intrusive flow measurement testing equipment is specified for volumetric or simulated testing (in situ accuracy testing) for metering equipment (other than equipment installed in connection with an open channel).
- (9) The following persons are specified for volumetric testing (in situ accuracy testing) of metering equipment installed in connection with an open channel using in situ

volumetric measurement procedures specified in AS 4747:

- (a) a certified meter installer who has experience in using intrusive and non-intrusive flow measurement testing equipment,
 - (b) a certified practising hydrographer who has experience in using intrusive and non-intrusive flow measurement testing equipment.
- (10) A certified meter installer is specified for maintenance activities that are required to be carried out annually or at more frequent intervals under the maintenance specifications in relation to metering equipment (other than metering equipment installed in connection with open channels).
- (11) The following persons are specified for maintenance activities that are required to be carried out annually or at more frequent intervals under the maintenance specifications in relation to metering equipment installed in connection with open channels:
- (a) a certified meter installer,
 - (b) a certified practising hydrographer.
- (12) The following persons are specified for maintenance activities that are required to be carried out every 5 years under the maintenance specifications in relation to metering equipment (other than metering equipment installed in connection with open channel):
- (a) a certified meter installer,
 - (b) a telemetry technician.
- (13) The following persons are specified for maintenance activities that are required to be carried out every 5 years under the maintenance specifications in relation to metering equipment installed in connection with open channel:
- (a) a certified meter installer,
 - (b) a certified practising hydrographer.
- (14) The following persons are specified for maintenance activities for the purpose of repairing faulty metering equipment:
- (a) a certified meter installer,
 - (b) a certified practising hydrographer.

237 Obligations of duly qualified persons

- (1) A duly qualified person who certifies the design of metering equipment for an open channel for the purposes of clause 2 (3) of Schedule 8 must give a certificate, in the

approved form, to the person who obtained the certification.

- (2) A duly qualified person who validates metering equipment in accordance with clause 7 of Schedule 8 must give the person for whom the validation is done a certificate, in the approved form:
 - (a) confirming that the metering equipment complies or does not comply with the matters required to be checked for validation, and
 - (b) if matters checked do not comply with the requirements of AS 4747, specifying the reasons why the equipment does not comply and the modifications that are required for compliance or that the equipment cannot be modified to enable compliance.
- (3) A duly qualified person who checks metering equipment for accuracy under clause 9 of Schedule 8 must give the person for whom the check is done a certificate, in the approved form, certifying whether or not the maximum permissible error of the metering equipment does or does not exceed plus or minus 5% in the field.
- (4) A duly qualified person who installs metering equipment or who carries out other work on metering equipment must notify the Minister in the approved form and manner if the person knows or reasonably suspects that the equipment has been tampered with.
- (5) A duly qualified person must not fail to comply with this clause.

Maximum penalty: 20 penalty units.

238 Metering records

- (1) For the purposes of section 91J of the Act, the following metering records must be kept, for a period of 5 years, by a person who is subject to a mandatory metering equipment condition:
 - (a) a certificate provided to the person under clause 237 (1) or (2) by a duly qualified person,
 - (b) a copy of a record made under clause 244 (2),
 - (c) a copy of a report given to the Minister under clause 8 or 9 of Schedule 8,
 - (d) a copy of a written certification given to the Minister under clause 9 (2) (b) of Schedule 8.
- (2) It is a condition of each authority that is the subject of a mandatory metering equipment condition that the holder of the authority must give the Minister a copy of a certificate provided under clause 237 (1) or (2) within 28 days of receiving the certificate.
- (3) A condition imposed by this clause is a mandatory condition for the purposes of

sections 115 and 115A (b) of the Act.

Division 4 Defences for metering offences

239 Commencement of Division

This Division commences on 1 April 2019.

240 Definitions

In this Division:

faulty, in relation to metering equipment, means metering equipment that is not operating properly or is not operating.

metered work means a water management work in connection with which metering equipment has been installed.

241 Reporting faulty metering equipment

For the purposes of section 911A (b) of the Act, notice that metering equipment is faulty is to be given to the Minister in the approved form and is to contain the following particulars:

- (a) the person's name and contact details,
- (b) the type and location of the metered work,
- (c) any relevant approval or access licence numbers,
- (d) the purposes for which the water taken from the metered work is used,
- (e) a description of the method to be used to determine the quantity of water taken while the metering equipment is faulty.

242 Records to be kept when metering equipment faulty

- (1) For the purposes of section 911 (3) of the Act, a person who takes water by means of a metered work while its metering equipment is faulty must comply with this clause.
- (2) The person must record the following information:
 - (a) the purposes for which the water taken from the metered work is used,
 - (b) if a pump is being used to take water, the size of the pump, the maximum extraction rate of the pump and the dates and times during which the pump is operating,
 - (c) if the water taken from the metered work is being used for irrigation, the area of land that is irrigated with the water,
 - (d) the last available reading of the metering equipment before it became faulty and

the first available reading after it is repaired,

(e) any other information that the Minister, by notice in writing to the person, directs the person to record.

(3) The information must be recorded in the approved form and manner.

(4) The person must, if directed to do so by the Minister, use an alternative means specified by the Minister to determine the quantity of water taken and must record that information in the approved form and manner.

(5) The person must:

(a) give a copy of the records required to be made under this clause to the Minister in the approved manner not later than 28 days after the metering equipment is repaired, and

(b) keep the records for a period of not less than 5 years.

243 Repairs to faulty metering equipment

(1) For the purposes of section 911 (3) of the Act, a person who takes water by means of a metered work while its metering equipment is faulty must comply with this clause.

(2) The person must repair the metering equipment, or cause it to be repaired, within 21 days of becoming aware that the metering equipment is faulty or within any further period permitted under this clause.

(3) If the person becomes aware that the equipment cannot be repaired within that period, the person must notify the Minister in the approved form and manner and seek an extension of the period for repairs to be carried out.

(4) An application for an extension must set out the reasons why the repair is not able to be carried out within the specified period and the date by which it is proposed to be repaired.

(5) The Minister may, by notice in writing given to the person, extend the period for repairs by the period specified in the notice.

(6) A person may make more than 1 application to extend the repair period.

(7) The person must give the following information to the Minister in the approved form not later than 28 days after the faulty metering equipment is repaired:

(a) the date the metering equipment was repaired,

(b) a description of any repairs,

(c) evidence that the metering equipment has been repaired (which may include a

statement from the person who repaired it),

(d) the name of the person who repaired it.

Division 5 Miscellaneous

244 Mandatory condition relating to other reporting

- (1) A condition imposed by this clause is a mandatory condition for the purposes of sections 115 and 115A (b) of the Act.
- (2) It is a condition of each authority that is the subject of a mandatory metering equipment condition that the holder of the authority must:
 - (a) record in the approved form and manner when water is taken using a work to which the authority applies under a basic landholder right or in other circumstances other than under an authority, and
 - (b) record, in the approved form, the means by which the holder confirmed water was taken in circumstances permitted by the authority and specified in the approved form, and
 - (c) record the information not later than 24 hours after water is taken as referred to in paragraph (a) or (b).
- (3) An authority that, immediately before the commencement of this clause, was subject to a condition requiring the holder to record information of a kind referred to in subclause (2) is taken to be amended by removing the condition and any other condition relating to keeping logbooks to record or report water that is taken.
- (4) For the purposes of subclause (3), it does not matter whether or not the condition relating to recording information or keeping logbooks also requires other information to be recorded.
- (5) This clause commences on 1 December 2019.

245 Mandatory conditions imposed on entitlements under former 1912 Act

A mandatory condition imposed on a licence or an entitlement under the former 1912 Act by this Part or clause 250 is taken to have been imposed on the licence or other entitlement under that Act.

246 Review of metering equipment regulations

- (1) The Minister is to review the operation of regulations made under section 115B of the Act as soon as possible after the period of 5 years from the date of commencement of the first regulations made under that section.
- (2) The Minister must publish the review on a website maintained by the Department that

is publicly accessible.

247 Service of documents

A document that is required to be given to a person under this Part may be given to the person in the manner in which a document may be served under the Act, except as otherwise provided by this Part.

Part 11 Miscellaneous

248 Notification of damage arising in the course of plumbing work

- (1) A person who, in the course of carrying out plumbing work in the area of operations of Essential Energy, damages a work or other property of a water supply authority must immediately notify the water supply authority of the damage.

Maximum penalty: 20 penalty units.

- (2) In this clause:

plumbing work means work comprising or affecting:

- (a) a water service or its connection to a water supply authority's water supply system, or
- (b) a sewerage service or its connection to a water supply authority's sewerage system.

249 Management plans may contain savings and transitional provisions

For the purposes of section 17 (e) of the Act, a management plan may, in respect of a water management area or water source to which it applies, contain provisions for or with respect to matters of a savings or transitional nature consequent on the making, amendment, repeal or consolidation of a management plan.

250 Recording water taken where metering equipment not required to comply with mandatory conditions

- (1) For the purposes of sections 115 and 115A (b) of the Act, it is a mandatory condition of an authority under which a work may be used to take water that the holder of the authority must:
 - (a) record water taken using the work, and
 - (b) keep the record for a period of 5 years.
- (2) The record is to be made:
 - (a) not later than 24 hours after water is taken, and

- (b) in an approved form and manner.
- (3) If an authority on which a condition is imposed under this clause is subject to an existing condition requiring the holder to record water taken, the authority is taken to be amended by removing the existing condition and any other existing condition relating to keeping logbooks to record or report water that is taken.
- (4) For the purposes of subclause (3), it does not matter whether or not the condition relating to recording water taken or keeping logbooks also requires other information to be recorded.
- (5) This clause does not apply if:
 - (a) metering equipment that complies with Schedule 8 is installed in relation to a work used to take water, or
 - (b) the authority is subject to a mandatory metering equipment condition (within the meaning of Part 10), or
 - (c) the water supply work is used solely to take water pursuant to a basic landholder right, or
 - (d) the water supply work is used solely to take water under a floodplain harvesting (regulated river) access licence or a floodplain harvesting (unregulated river) access licence.
- (6) This clause commences on 1 December 2019.
- (7) In this clause, **authority** has the same meaning as in Part 10.

251 Management plans—water sharing provisions

- (1) For the purposes of section 21 (c) of the Act, the following are prescribed as circumstances in which water may be withdrawn from a water allocation account:
 - (a) circumstances in which there is insufficient water available in the relevant dam to provide for losses in the conveyance of water between the dam and the locations to which it is delivered (whether by evaporation, leakage or otherwise),
 - (b) circumstances in which the amount of uncontrolled flow taken under a regulated river (general security) access licence or a regulated river (high security) access licence exceeds the amount that is allowed to be taken:
 - (i) under that licence, or
 - (ii) under the order under section 85A of the Act that authorises the taking of the uncontrolled flow,
 - (c) circumstances in which during a water year one or more available water

determinations to credit a water allocation account for a regulated river (general security) access licence or a regulated river (high security) access licence are made during or after water has been taken pursuant to an order made under section 85A of the Act that authorises the taking of water from uncontrolled flows in the same water year,

Note—

Paragraph (c) enables water to be withdrawn from a water allocation account of a regulated river (general security) access licence or a regulated river (high security) access licence where any available water determination is made during or after a period of access to uncontrolled flows. The amount to be withdrawn is the lesser of the amount of uncontrolled flow taken and the amount credited to the water allocation account as a result of any available water determinations made during or after the taking of uncontrolled flows.

- (d) circumstances in which the balance of the account exceeds the maximum volume of water allocations that may be held in the account under the management plan for the water source to which the account relates.
- (2) One or more withdrawals may be made from a water allocation account during the water year in the circumstances referred to in subclause (1) (c) but the total amount withdrawn must not exceed the lesser of:
- (a) the total amount of uncontrolled water taken in the water year pursuant to the order, or
 - (b) the total amount credited to the account in the water year in accordance with one or more available water determinations made during or after water has been taken by the licence holder pursuant to the order under section 85A of the Act.
- (3) For the purposes of section 21 (f) of the Act, the water sharing planning provisions of a management plan for a water management area or water source may deal with:
- (a) the short-term delivery of water through the area, including by providing for the grouping of water orders and the periodic release of water orders, where the circumstances or conditions of delivery would result in unacceptably high delivery losses, and
 - (b) the return or delivery of water to a water source, including the circumstances in which the water is to be returned or delivered.
- (4) In this clause, **the relevant dam** means the dam from which water is released for delivery to the holder of an access licence.

252 Land declared to be a floodplain

- (1) For the purposes of the definition of **floodplain** in the Dictionary to the Act:
- (a) the land shown edged in heavy black on the map in Part 1 of Schedule 6 is declared to be the Gwydir Valley Floodplain, and

(b) the land shown edged in heavy black on the map in Part 2 of Schedule 6 is declared to be the Barwon-Darling Valley Floodplain.

- (2) For the purposes of clause 12 of Schedule 9 to the Act, land to which that clause applies ceases to be taken to be a floodplain under that clause on the land being declared under the Act to be, or to be part of, another floodplain.

253 Exemptions relating to taking over works—Anabranch Water

- (1) The private irrigation board Anabranch Water is exempt from section 159 (3) and (4) of the Act until the end of 30 June 2020.
- (2) In this clause:

Anabranch Water means the board of management for the Great Anabranch of the Darling River Private Water Supply and Irrigation District, constituted by a proclamation published in Gazette No 142 of 25 November 2005 at pages 9809–9810.

254 Fees and charges

- (1) Subject to this Regulation, a charging authority may waive or reduce any fee or charge imposed under the Act.
- (2) In this clause, **charging authority**, in relation to a fee or charge, means the person or body (other than the Minister) that imposes the fee or charge.

255 Liability for rates and charges levied after transfer of estate or interest

For the purposes of section 361 of the Act, the prescribed notice is a document in writing, containing the following information:

- (a) a statement that the document is notice of a disposal of an estate or interest in land,
- (b) details of the land in respect of which rates or charges have been, or may be, levied,
- (c) the date on which the estate or interest in land was disposed of,
- (d) the name and address of the person disposing of the estate or interest,
- (e) the name and address of the person to whom the estate or interest was transferred.

256 Electronic lodgment of certain applications, claims and objections

- (1) An application referred to in clause 9 or 25, a claim referred to in clause 19 or an objection referred to in clause 27, 52 or 54 may be lodged electronically only if:
- (a) the information recorded in the application, claim or objection is capable, at any time, of being reproduced in a written form, and
- (b) the application, claim or objection is lodged in an information system designated

by the Minister for the purpose of receiving such an application, claim or objection.

- (2) Such an application, claim or objection that is lodged electronically is taken to be duly authenticated if:
 - (a) it identifies:
 - (i) in the case of an application, each party to the application, and
 - (ii) in the case of a claim, the claimant, and
 - (iii) in the case of an objection, the objector, and
 - (b) it indicates the belief of each party or the claimant or the objector in the truth of the information contained in the application, claim or objection (as the case may be).
- (3) In this clause:

information system means a system for generating, sending, receiving, storing or otherwise processing electronic communications.

257 Transformation of water entitlements

- (1) For the purposes of sections 190A (4) and 237A (4) of the Act, a determination by a private irrigation board or the members of a private water trust of a landholder's water entitlement must specify the following:
 - (a) the proportion of the share component of an access licence held by or on behalf of the board or trust that is available to the landholder,
 - (b) the licence category of the landholder's proportion of the share component.
- (2) For the purposes of sections 190A (6) and 237A (6) of the Act, a **member of a person's immediate family** means:
 - (a) a spouse or de facto partner or former spouse or de facto partner of the person, or
 - (b) a child or step-child of the person, or
 - (c) a grandchild or step-grandchild of the person, or
 - (d) a parent or step-parent of the person, or
 - (e) a grandparent or step-grandparent of the person, or
 - (f) a brother, sister, step-brother or step-sister of the person.

258 Metering equipment installed by Ministerial Corporation

- (1) The Ministerial Corporation is the owner of metering equipment installed or replaced

by the Ministerial Corporation on or after 4 March 2011.

- (2) The Ministerial Corporation may exercise the function of modifying metering equipment (whether or not it is the property of the Corporation) but is not to exercise that function to the exclusion of any other person unless the equipment is referred to in subclause (3).
- (3) The Ministerial Corporation may exercise the functions specified in section 372A (2) of the Act exclusively in relation to the following metering equipment:
 - (a) metering equipment installed, modified or replaced by the Ministerial Corporation on or after 4 March 2011,
 - (b) metering equipment installed, modified or replaced by the Ministerial Corporation before 4 March 2011 pursuant to the Funding Deed dated 15 April 2009 between the Commonwealth of Australia and the New South Wales Government in relation to the Hawkesbury Nepean River Recovery Project.

259 Repeal and savings

- (1) The *Water Management (General) Regulation 2011* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Water Management (General) Regulation 2011*, had effect under that regulation continues to have effect under this Regulation.

Note—

Section 30 (2) (d) of the *Interpretation Act 1987* ensures that the repeal of a regulation does not affect the operation of any savings or transitional provision contained in the regulation.

- (3) Without limiting subclause (2), Schedule 4 to that Regulation, as in force immediately before its repeal, continues to apply in respect of any access licence or approval to which it applied before that repeal.

Schedule 1 Excluded works

(Clause 3 (1), definition of “excluded work”)

- 1 Dams solely for the control or prevention of soil erosion:
 - (a) from which no water is reticulated (unless, if the dam is fenced off for erosion control purposes, to a stock drinking trough in an adjoining paddock) or pumped, and
 - (b) the structural size of which is the minimum necessary to fulfil the erosion control function, and
 - (c) that are located on a minor stream.
- 2 Dams solely for flood detention and mitigation:
 - (a) from which no water is reticulated or pumped, and

- (b) that are located on a minor stream.
- 3** Dams solely for the capture, containment and recirculation of drainage and/or effluent, consistent with best management practice or required by a public authority (other than Landcom or the Superannuation Administration Corporation or any of their subsidiaries) to prevent the contamination of a water source, that are located on a minor stream.
- 4** Dams approved in writing by the Minister for specific environmental management purposes:
 - (a) that are located on a minor stream, and
 - (b) from which water is used solely for those environmental management purposes.
- 5** Rainwater tanks collecting water from roofs only.
- 6** Works impounding water that exceeds the harvestable rights referred to in an order under section 54 of the Act:
 - (a) that were constructed before 1 January 1999, and
 - (b) that are used solely for domestic consumption and stock watering or that do not result in the extraction of water, and
 - (c) that are located on a minor stream, and
 - (d) from which water is being used only on the landholding on which the dam is located.
- 7** Dams or excavations located on a river or lake constructed under section 7 of the [Water Act 1912](#) before 1 January 2001 that are used solely for stock, domestic or stock and domestic purposes, or for purposes which do not require extraction of water.
- 8** Works in the Western Division that are located on lakes shown in the legend of the 1:100 000 topographic maps issued by the Land Information Centre (formerly the Central Mapping Authority) applying at 1 January 1999 to that Division as “Lake Mainly Dry”.
- 9** Works in the Western Division constructed before 1 January 1999:
 - (a) impounding water on the areas of land shown in the legend of the 1:100 000 topographic maps issued by the Land Information Centre applying at 1 January 1999 to that Division as land subject to flooding or inundation, or lakes shown as “perennial” or “intermittent”, and
 - (b) from which water is used solely for stock, domestic or stock and domestic purposes, or for purposes which do not require extraction of water.

Schedule 2 Stream order of a watercourse

(Clause 3 (1), definition of “minor stream”)

The Strahler system

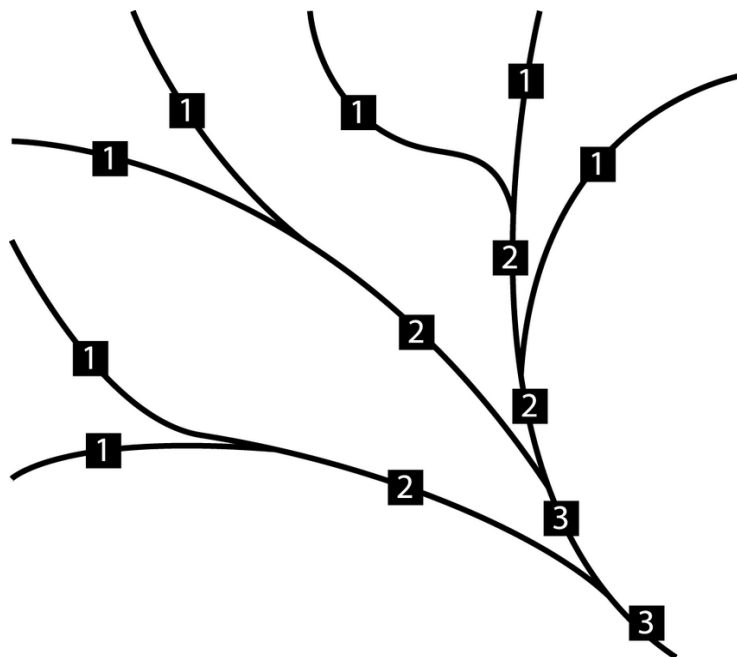
The method of determining the stream order of a watercourse shown on a topographic map is the Strahler system.

The **Strahler system** is as follows:

- (a) Any watercourse that has no other watercourses flowing into it is classed as a first order stream.
- (b) If 2 streams join, the resulting stream is:
 - (i) the same order as the highest order of the 2 streams, or
 - (ii) if the 2 streams are of the same order, the order greater than that of the 2 streams.

For example, in the diagram below:

- (a) If 2 first order streams join, the stream becomes a second order stream (2).
- (b) If a second order stream is joined by a first order stream, it remains a second order stream.
- (c) If 2 second order streams join they form a third order stream (3).
- (d) If a third order stream is joined by a first or second order stream, it remains a third order stream.
- (e) If 2 third order streams join they form a fourth order stream.



Schedule 3 Categories and subcategories of licences

(Clause 4 (2))

Column 1

Category of access licence

Regulated river (high security)

Column 2

Subcategory of access licence

Aboriginal commercial

Aboriginal community development

Aboriginal cultural

	Community and education
	Environmental
	Research
	Town water supply
Regulated river (general security)	Aboriginal commercial
	Aboriginal community development
	Community and education
	Environmental
	Research
Local water utility	Domestic and commercial
Major utility	Power generation
	Urban water
Domestic and stock	Domestic
	Stock
	Town water supply
Unregulated river	Aboriginal commercial
	Aboriginal community development
	Aboriginal cultural
	Community and education
	Environmental
	Research
	Town water supply
Aquifer	Aboriginal commercial
	Aboriginal community development
	Aboriginal cultural
	Community and education
	Environmental
	Research
	Town water supply
Supplementary water	Aboriginal environmental
	Environmental

	(Lowbidgee)
	Storage
Regulated river (conveyance)	Environmental
Murrumbidgee Irrigation (conveyance)	Environmental
Coleambally Irrigation (conveyance)	Environmental
Unregulated river (high flow)	Environmental

Schedule 4 Exemptions

(Clauses 21 and 42)

Part 1 Access licence exemptions

1 Definition

In this Part:

public authority does not include Landcom or the Superannuation Administration Corporation or any of their subsidiaries.

2 Roads authorities

A roads authority (within the meaning of the [Roads Act 1993](#))—in relation to water required for road construction and road maintenance.

3 Transport authorities

(1) A transport authority—in relation to water required for the construction or maintenance of rail infrastructure facilities (within the meaning of the [Transport Administration Act 1988](#)) if the transport authority, after considering the environmental impact of the activity in accordance with section 5.5 of the [Environmental Planning and Assessment Act 1979](#) (as if the transport authority were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment.

(2) In this clause:

transport authority means the following within the meaning of the [Transport Administration Act 1988](#):

- (a) RailCorp,
- (b) Transport for NSW,
- (c) ARTC,
- (d) the Secretary.

4 Drought relief

Any person lawfully engaged in the carriage of water for drought relief—in relation to water required for drought relief, but only for the purposes of domestic consumption, stock watering or both.

5 Dust suppression

Any public authority lawfully engaged in the use of water for dust suppression—in relation to water required for that purpose.

6 Hydrostatic testing

Any person lawfully engaged in the hydrostatic testing of a gas pipeline—in relation to water required for initial testing of that pipeline before it is put into service for the first time, up to a maximum of 7 megalitres.

7 Prospecting or fossicking

Any person lawfully engaged in prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*—in relation to:

- (a) the taking of water required for such prospecting or fossicking pursuant to a lease, licence, mineral claim or environmental assessment permit under the *Mining Act 1992* or a petroleum title under the *Petroleum (Onshore) Act 1991* (an **authority**), up to a maximum of 3 megalitres for all such prospecting or fossicking pursuant to each such authority in any water year, and
- (b) the taking of up to 3 megalitres of water required for all other such prospecting or fossicking in any water year.

8 Domestic electricity generation

Any landholder—in relation to water required for the purpose of generating electricity for domestic consumption on that land, but only if:

- (a) the water is returned to the same water source from which it was taken and within 50 metres of the point at which it was taken, and
- (b) the returned water is of the same quality as it was when it was taken (in terms of chemical composition, temperature, sediment content and salinity).

9 Water bore testing

Any person engaged in the testing of a water bore by means of a pump test required under, and carried out in accordance with an aquifer interference approval with respect to that activity, a water supply work approval for the water bore, or the conditions of an approved project under Part 3A or an approval under Division 5.2 of Part 5, of the *Environmental Planning and Assessment Act 1979*—in relation to water required for that

purpose:

- (a) during the week following completion of the water bore's installation, or
- (b) during any other period for which such testing is required to be carried out by the relevant approval.

10 Exempt monitoring bores

Any person—in relation to the taking of water from or by means of an exempt monitoring bore for the purposes of measuring water levels, water pressure or water quality.

11 Hydro-electric power stations

Any person lawfully engaged in the operation of a hydro-electric power station in connection with a water supply work owned by Water NSW or the Ministerial Corporation (such operation being authorised by Water NSW or the Ministerial Corporation)—in relation to water required for the purpose of generating hydro-electric power, but only if:

- (a) the water is returned to the same water source from which it was taken, and
- (b) the returned water is of the same quality as it was when it was taken (in terms of chemical composition, temperature, sediment content and salinity).

12 Excluded works

- (1) Any landholder—in relation to the taking of water from or by means of a work referred to in item 1, 2, 3, 4, 6, 7 or 9 in Schedule 1 that is situated on the land, for the purposes and in the circumstances specified in Schedule 1 in respect of the work.
- (2) Any landholder—in relation to the taking of water from or by means of a work referred to in item 5 or 8 in Schedule 1 that is situated on the land.

13 Sugar cane plantings

Any person—in relation to the taking of water from an artificial channel if:

- (a) the water is taken for the purpose of watering to establish agricultural plantings of sugar cane (with a sugar cane plant taken to be established once it reaches a height of 50 centimetres), and
- (b) the volume of water taken does not, in any continuous 12 month period, exceed 0.05 of a megalitre per hectare of land on which sugar cane is being established, and
- (c) the channel was constructed for the primary purpose of draining water from land on which sugar cane is grown, and
- (d) the channel does not have banks that are above ground level, and
- (e) the channel is located in an area to which the [Water Sharing Plan for the Clarence](#)

River Unregulated and Alluvial Water Sources 2016, the *Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016*, the *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2010* or the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010* applies, and

- (f) any work used to take the water is not fixed to the land.

14 Taking water for basic human water needs

The Ministerial Corporation—in relation to the taking of water for **approved watering for basic human water needs**, being watering:

- (a) that the Minister is satisfied:
- (i) is in the public interest, and
 - (ii) is urgently required for basic human water needs, and
- (b) that is in accordance with a watering program that is approved by the Minister in writing and that addresses:
- (i) the amount of water proposed to be taken, and
 - (ii) the water source from which the water will be taken.

15 Taking water for environmental work construction

A public authority—in relation to the taking of up to 0.5 megalitre of water in any water year (or up to such lesser amount as the Minister may specify) that the Minister is satisfied is for the purpose of constructing on waterfront land a water supply work that will have an environmental benefit, but only if the work is in accordance with a program approved by the Minister in writing that addresses:

- (a) the amount of water proposed to be taken, and
- (b) the water source from which the water will be taken.

Note—

The construction and use of a water supply work for the purpose of taking any such water may still require a water supply work approval under Part 3 of Chapter 3 of the Act.

16 Holders of certain approvals

- (1) The holder of an approval arising from the entitlement referred to in clause 87 (a) of Schedule 4 to the *Water Management (General) Regulation 2011* as continued in force by this Regulation—in relation to the taking of any water from Bungaree Creek or Bingera Creek (as described in the entitlement).
- (2) The holder of an approval arising from an entitlement referred to in clause 87 (b) of

Schedule 4 to the *Water Management (General) Regulation 2011* as continued in force by this Regulation—in relation to the taking of any water from a river to which the entitlement relates (as described in the entitlement).

17 Emergency safety measures

Any person—in relation to the taking of water for the purposes only of complying with a direction given under the *State Emergency Service Act 1989* or the *State Emergency and Rescue Management Act 1989* in an emergency (within the meaning of the latter Act), but only if the person's compliance with the direction is in accordance with the Act under which it is given.

Part 2 Controlled activities exemptions

18 Activities under mining, crown lands or western lands legislation

Any activity carried out in accordance with any lease, licence, permit or other right in force under the *Mining Act 1992* or the *Crown Lands Management Act 2016* or a petroleum title in force under the *Petroleum (Onshore) Act 1991*.

19 Activities on land of Maritime Authority or Port Corporation

Any activity:

- (a) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of Roads and Maritime Services or the Port Authority of New South Wales (within the meaning of the *Ports and Maritime Administration Act 1995*), or
- (b) carried out in accordance with any lease, licence, permit or other right in force in respect of land under the ownership or control of a port operator (within the meaning of the *Ports and Maritime Administration Act 1995*), but only if the operator, after considering the environmental impact of the activity in accordance with section 5.5 of the *Environmental Planning and Assessment Act 1979* (as if the operator were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment, or
- (c) for which the Minister administering the *Ports and Maritime Administration Act 1995* is the consent authority under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

20 Activities under water supply works approval

Any activity comprising the excavation of the bed of a river, lake or estuary for the purpose of facilitating the use of a water supply work, being an activity that:

- (a) is detailed in the conditions of the water supply work approval for the water supply work, and

(b) is carried out in accordance with those conditions.

21 Activities with respect to domestic and stock rights

Any of the following activities for the purpose of enabling a person to take, or facilitating a person's taking of, water pursuant to section 52 (Domestic and stock rights) of the Act:

- (a) the removal of alluvial material from the bed of a river to enable or facilitate the taking of water, if:
 - (i) any excavation:
 - (A) is no deeper than 1 metre, and
 - (B) is no wider than 1/3 of the width of the river at that point or 6 metres (whichever is lesser), and
 - (C) is no longer than its width, and
 - (ii) the only alluvial material that is removed is material that has been deposited on the riverbed by the flow of water in the river such as sand, silt or gravel, and
 - (iii) no material is removed within 1 metre of the bank of the river, and
 - (iv) any alluvial material that has been removed is placed in the bed of the river, immediately upstream of the excavation,
- (b) any controlled activity in, on or under the bank of a river to enable or facilitate the installation of a pipe, if:
 - (i) the pipe is above ground or in a trench that is the minimum size necessary to hold the pipe but is no more than 0.3 metre wide and 0.3 metre deep, and
 - (ii) any material that is removed is used to backfill the trench within 48 hours after its removal,
- (c) any controlled activity in, on or under waterfront land to enable or facilitate the installation of a water supply work that is a pump, if:
 - (i) the controlled activity is not on the bed or bank of a river, and
 - (ii) any material removed is the minimum amount necessary to establish a suitable pump site but is no more than 1 cubic metre, and
 - (iii) the area of land from which any material is removed is no greater than 4 square metres.

22 Activities in accordance with harvestable rights orders

Any activity carried out, in accordance with a harvestable rights order, in connection with

the construction or use of a dam on land within the harvestable rights area constituted by the order.

23 Activities connected with construction of fencing, crossings or tracks

Any activity carried out in connection with the construction or use of fencing, or of a vehicular crossing or an access track, that does not impound water, being an activity carried out in, on or under waterfront land:

- (a) relating to a minor stream, and
- (b) within a rural zone (other than a rural village) under an environmental planning instrument.

24 Activities in connection with works under former 1912 Act

- (1) Any activity carried out in connection with the construction or use of a work to which Part 2 of the former 1912 Act applies in accordance with a licence issued under that Part in relation to that work, being an activity that:
 - (a) is detailed in the conditions of the licence, and
 - (b) is carried out in accordance with those conditions.
- (2) Any activity carried out in connection with the construction or use of a controlled work within the meaning of Part 8 of the former 1912 Act in accordance with an approval issued under that Part in relation to that work, being an activity that:
 - (a) is detailed in the conditions of the approval, and
 - (b) is carried out in accordance with those conditions.

25 Removal of vegetation

Any activity authorised under the Act or any other Act or law comprising nothing more than the removal of vegetation (other than large woody debris), but only if the activity does not include the removal or disturbance of soil or other extractive materials.

26 Development at Rouse Hill Regional Centre

The carrying out of development in accordance with section 6 of Part D (Rouse Hill Regional Centre) of *The Hills Development Control Plan 2012* on the land to which that section applies (being land bounded by Windsor Road, Commercial Road and Withers Road, Rouse Hill).

27 Development on waterfront land at Oran Park or Turner Road

The carrying out of development in accordance with the *Oran Park and Turner Road Waterfront Land Strategy 2009*, as published in the Gazette on 17 July 2009.

28 Activities on waterfront land if river is concrete lined or in pipe

Any activity carried out on waterfront land relating to a river where the channel of the river is fully concrete lined or is a fully enclosed pipe channel.

29 Activities with respect to dwellings

(1) Any activity carried out in connection with the erection or demolition of, the making of alterations or additions to or the provision of ancillary facilities for, a dwelling house or dual occupancy building, being activities:

(a) that comprise exempt development or that are the subject of a development consent or complying development certificate in force under the *Environmental Planning and Assessment Act 1979*, and

(b) that are not carried out on or in:

(i) the bed or bank of any river, or

(ii) the bed or shore of any lake, or

(iii) the bed, or land lying between the bed and the mean high water mark, of any estuary.

(2) In this clause:

development has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

dual occupancy building means a building containing 2, but no more, dwellings within the meaning of the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

dwelling house has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

30 Emergency safety measures

Any activity carried out for the purposes only of complying with a direction given under the *State Emergency Service Act 1989* or the *State Emergency and Rescue Management Act 1989* in an emergency (within the meaning of the latter Act), being compliance that is in accordance with the Act under which the direction is given.

31 Controlled activities on certain waterfront land

Any controlled activity that is carried out on waterfront land in relation to a minor stream or third order stream, where the activity is separated from the bed of the minor stream or third order stream by one or more of the following that has been lawfully constructed:

(a) a public road,

- (b) a hard stand space (such as a car park or building),
- (c) a levee bank, but only if the levee bank is in an urban area, was the subject of a development consent under the *Environmental Planning and Assessment Act 1979* and is located within a designated high risk flood area (within the meaning of clause 45 of this regulation).

Note—

See Schedule 2 in relation to third order streams.

32 Pontoons, jetties and moorings

Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:

- (a) the removal of material from the land,
- (b) the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land,
- (c) works which change the profile of the waterfront land adjoining the lake or estuary.

33 Maintenance of existing lawful works

Any activity necessary for the purpose of the preservation, repair or upkeep of any building or structure lawfully constructed on waterfront land (other than an agricultural drain), but does not include additions or enhancements to, or the expansion of, the building or structure.

Note—

Clause 34 makes provision with respect to repair work and the removal of woody debris arising from a storm event.

34 Repair and restoration work after storms

The following activities after a storm event:

- (a) repair work on any building or structure (including any access track, watercourse crossing, water supply works or essential services infrastructure) damaged by the storm, but only if:
 - (i) the work does not involve the replacement of a structural component of any building or structure that could not otherwise be repaired under this Schedule, and
 - (ii) the work does not include enhancements to, or the expansion of, the building or structure beyond its condition immediately before the storm damage occurred.

Note—

Clause 33 makes provision with respect to repair and maintenance of certain buildings and structures on

waterfront land.

- (b) the removal of detritus (including woody debris) deposited on waterfront land as a result of the storm.

35 Compliance with enforcement action

- (1) Any activity required to be carried out to comply with any direction, request or order under the Act or any other Act or law, but only if the direction, request or order was made:
 - (a) by a court, or
 - (b) by the Minister or an authorised officer.
- (2) Any activity that is not otherwise specified in this Part that is required to be carried out to comply with a direction, request or order made under the Act or any other Act or law (other than a direction, request or order referred to in subclause (1)), but only if the Minister approves the carrying out of the activity without a controlled activity approval.

36 Exempt development, complying development and controlled activities with development consent on certain waterfront land

- (1) Any activity on waterfront land adjoining a lake or estuary identified on a map approved by the Minister and published on the Department's website for the purposes of this clause, before the commencement of this Regulation, that is development for which development consent has been granted, or is exempt development or complying development.
- (2) In this clause, **complying development**, **development consent** and **exempt development** have the same meanings as in the [Environmental Planning and Assessment Act 1979](#).

37 Activities by State owned bodies

Any activity carried out by a body (whether incorporated or unincorporated) established or continued for a public purpose that is wholly owned by the State or a Government agency, but only if:

- (a) the activity does not cause any change in the course of the river, and
- (b) the body, after considering the environmental impact of the activity in accordance with section 5.5 of the [Environmental Planning and Assessment Act 1979](#) (as if the body were the determining authority under that section), is satisfied that the activity is not likely to significantly affect the environment.

Schedule 5 Forms

(Clause 55)

Form 1 Certificate

(*Water Management (General) Regulation 2018*, clause 67 (2) (e))

I certify that this roll contains the full names [*consecutively numbered and listed in alphabetical order*] and addresses of those persons who, in my opinion, are entitled to vote in the election in relation to which this roll has been prepared.

The first and last entries in the roll are as follows:

First Entry:

No:

Name:

Address:

Last Entry:

No:

Name:

Address:

Dated:

Signed:

Form 2 Application for enrolment

(*Water Management (General) Regulation 2018*, clause 69 (2))

Surname:

Given Names:

Postal Address:

Postcode:

Telephone No:

Address of property on which enrolment is based:

Local government area in which the property is situated:

I apply to be enrolled in the final roll for the following election and in any subsequent election [*specify the election to which the application relates*].

I am applying for enrolment:

(a) *as the sole owner of property,

(b) *as the representative of a corporation on behalf of which the property is owned,

(c) *as the representative of the trustees or legal personal representatives of a person or estate.

Particulars of *corporation/*trustee/*legal personal representative in respect of whom or which the applicant is the representative *[*see paragraphs (b) and (c) above*]:

Name:

Postal Address:

I declare that *I have/*the person that I represent has, as at the calling of the election, the qualifications to vote.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated:

Signed:

* *Delete whichever is inapplicable.*

Form 3 Objection to enrolment

(Water Management (General) Regulation 2018, clause 70 (2) (a))

I object to the inclusion in the final roll for the following election: [*specify the election to which the objection relates*] of the name of [*name in full*] of [*postal address*].

This objection is based on the following grounds: [*specify the grounds of the objection*]

Name of objector:

Postal Address:

Telephone No:

Dated:

Signed:

Form 4 Nomination of candidate

(Water Management (General) Regulation 2018, clause 76 (1) (a))

We nominate [*name in full*] of [*postal address*] as a candidate for the following election: [*specify the election to which the nomination relates and any zone in which the election is to be held*].

We declare that we are each entitled to vote in the election.

Name in full: Address: Signature:

1

2

3

4

5

6

Note—

This nomination must be completed by not fewer than 2 persons (other than the candidate), each of whom is qualified to vote under the *Water Management (General) Regulation 2018* in respect of the election.

I, [*name in full*] consent to being a candidate at the election to which this nomination relates.

Postal address:

Telephone No:

Date of birth:

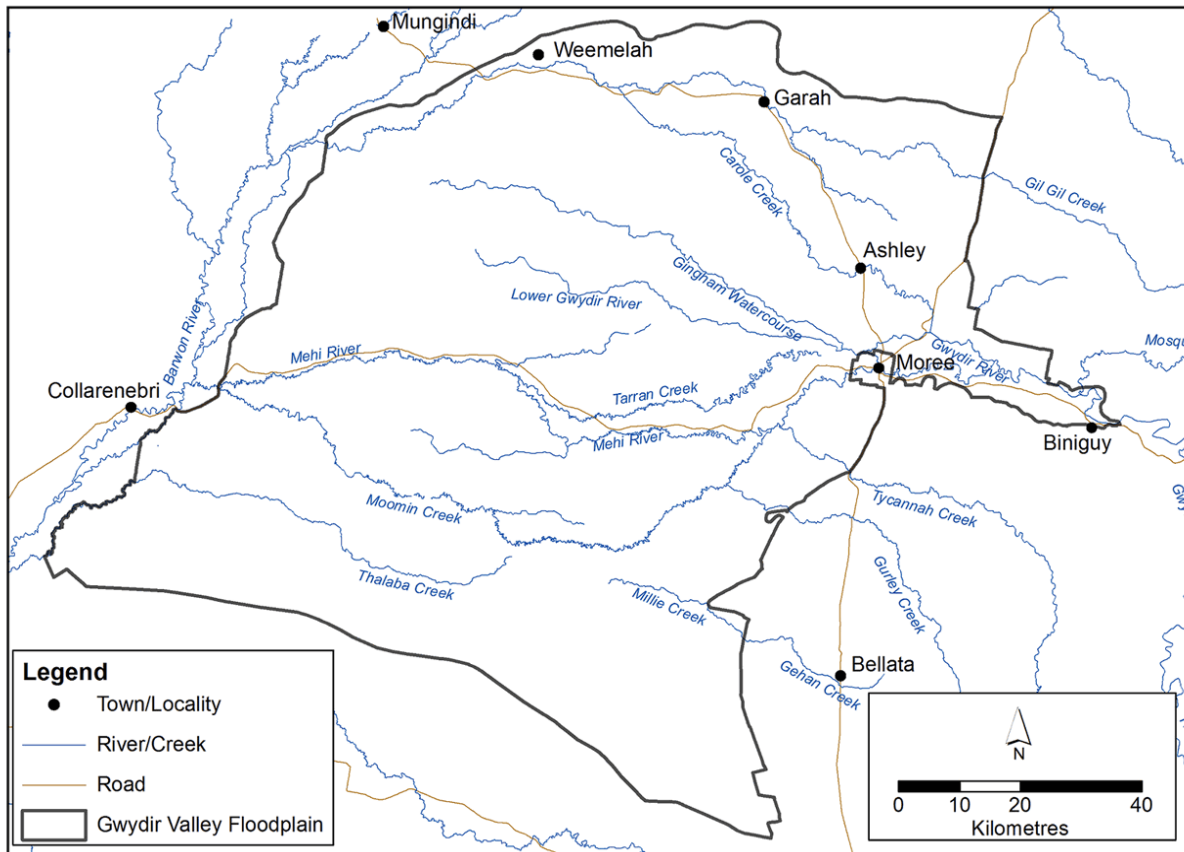
Dated:

Signed:

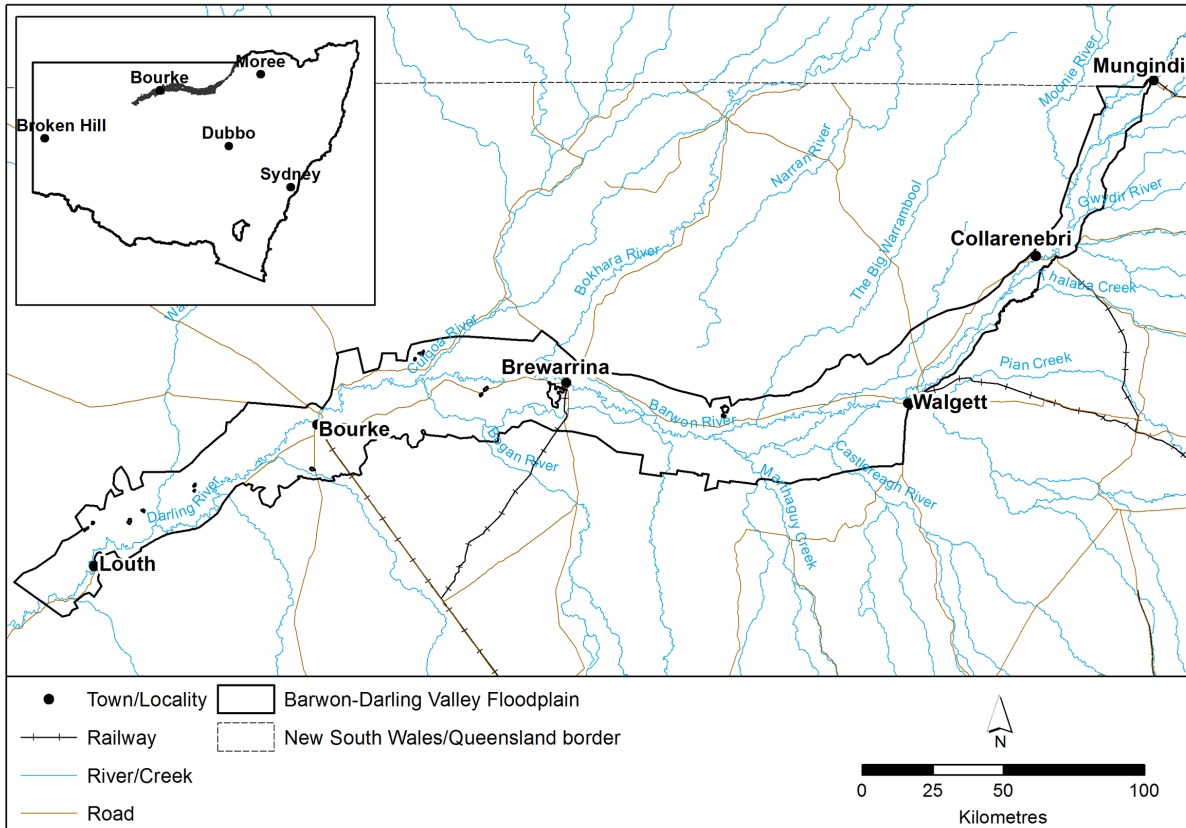
Schedule 6 Floodplain

(Clause 252)

Part 1 Gwydir Valley Floodplain



Part 2 Barwon-Darling Valley Floodplain



Schedule 7 Penalty notice offences

For the purposes of section 365 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2	Column 3
Provision of Act	Penalty for individual	Penalty for corporation
Section 60A (2)	\$750	\$1,500
Section 60B	\$750	\$1,500
Section 60C (2)	\$750	\$1,500
Section 60D	\$750	\$1,500
Section 91A (1)	\$750	\$1,500
Section 91A (2)	\$750	\$1,500

Section 91B (1)	\$750	\$1,500
Section 91B (2)	\$750	\$1,500
Section 91C (1)	\$750	\$1,500
Section 91C (2)	\$750	\$1,500
Section 91D (1)	\$750	\$1,500
Section 91D (2)	\$750	\$1,500
Section 91E (1)	\$750	\$1,500
Section 91E (2)	\$750	\$1,500
Section 91F (1)	\$750	\$1,500
Section 91F (2)	\$750	\$1,500
Section 91G	\$750	\$1,500
Section 91H (1)	\$750	\$1,500
Section 91H (2)	\$750	\$1,500
Section 91H (3)	\$750	\$1500
Section 91I (2)	\$750	\$1,500
Section 91IA	\$750	\$1500
Section 91J (1)	\$750	\$1,500
Section 91K (2)	\$750	\$1,500
Section 120 (4)	\$750	\$1,500
Section 256 (1)	\$750	\$1,500
Section 318A	\$750	\$1,500
Section 318B	\$750	\$1,500
Section 336C (1)	\$750	\$1,500
Section 340A (1)	\$750	\$1,500
Section 342 (1)	\$750	\$1,500
Section 342 (2)	\$750	\$1,500
Section 343 (1)	\$750	\$1,500
Section 345 (2)	\$750	\$1,500
Section 346	\$750	\$1,500

Column 1

Column 2

Column 3

Provision of Regulation	Penalty for individual	Penalty for corporation
Clause 123 (1)	\$500	
Clause 124 (1)	\$500	
Clause 124 (2)	\$500	
Clause 126 (1), (2) or (3)	\$500	
Clause 127	\$500	
Clause 132	\$200	
Clause 133 (1)	\$200	
Clause 141 (4)	\$200	
Clause 143 (1)	\$500	
Clause 144 (1)	\$500	
Clause 156 (1)	\$500	
Clause 157	\$500	
Clause 159 (1) or (3)	\$500	
Clause 160 (2) or (3)	\$700	
Clause 164 (3)	\$500	
Clause 180	\$200	
Clause 181	\$200	
Clause 183	\$200	
Clause 184	\$200	
Clause 185 (3)	\$200	
Clause 186	\$200	

Schedule 8 Metering equipment

(Clause 235)

1 Interpretation

(1) In this Schedule:

approved data logging and telemetry specifications means the data logging and telemetry specifications approved by the Minister under clause 10, as in force from time to time.

(2) Words and expressions used in this Schedule have the same meaning as in Part 10.

2 Standards for installation, re-installation and maintenance

- (1) Metering equipment must be installed, or re-installed, in accordance with AS 4747 by a duly qualified person.
- (2) Metering equipment must be installed or re-installed so that it measures the flow of all water taken through the work.
- (3) Metering equipment installed in connection with an open channel on or after 1 April 2019 must be of a design that is certified by a duly qualified person as complying with the requirements of AS 4747.
- (4) Metering equipment must be maintained in accordance with the maintenance specifications approved by the Minister, as in force from time to time, and published in the Gazette.

3 Pattern approval

- (1) Subject to clause 9, the meter must be pattern approved under the [National Measurement Regulations 1999](#) of the Commonwealth in accordance with the following standards:
 - (a) *NMI M 10 Meters Intended for the Metering of Water in Full Flowing Pipes,*
 - (b) *NMI M 11 Meters Intended for the Metering of Water in Open Channels and Partially Filled Pipes.*
- (2) This clause does not apply to a meter installed in connection with an open channel.

4 Data loggers

- (1) Metering equipment must have a data logging capacity that enables it to collect, record and store the water take data at intervals of not more than 1 hour, including the time and date of each interval and the period or periods for which water was taken.
- (2) The metering equipment must retain the water take data for a period of not less than 5 years.
- (3) The data logging capacity of metering equipment must comply with the approved data logging and telemetry specifications.
- (4) Without limiting the matters that may be included in the approved data logging and telemetry specifications, the specifications may require metering equipment to collect, record and store the following data electronically:
 - (a) data relating to the operation of the metering equipment, including data relating to power inputs and whether a work is turned on or off,

(b) data relating to malfunctions or other events that indicate that the accuracy or other operation of metering equipment may be affected.

(5) The data logging capacity for metering equipment may be provided by a device that is used in respect of more than one device for measuring the flow of water.

(6) In this clause:

water take data means the flow rate and cumulative volume of water taken.

5 Seals and security

(1) Metering equipment must have tamper evident seals, locks, controls or other devices sufficient to limit access to, and prevent tampering with, the equipment.

(2) A tamper evident seal must:

(a) be capable of clearly showing whether the metering equipment has been interfered with, and

(b) not prevent the reading of metering equipment or affect the operation of the telemetry system for the equipment, and

(c) comply with AS 4747, if applicable.

(3) Metering equipment must have a means of identifying whether interference has occurred with data readings or other electronic functions of the equipment (including telemetry).

6 Telemetry

(1) This clause commences on 1 December 2019.

(2) This clause does not apply to metering equipment used in conjunction with the following works:

(a) a pump used for surface water to which a water supply work approval that authorises the use of a pump of not more than 199 mm applies,

(b) a water supply work that is authorised to take water from a groundwater source.

(3) Metering equipment must have a telemetry capacity to transmit data relating to water usage that complies with the approved data logging and telemetry specifications.

(4) The telemetry capacity for metering equipment may be provided by a device that is used in respect of more than one device for measuring the flow of water.

(5) Without limiting the matters that may be included in the approved data logging and telemetry specifications, the specifications may deal with the following:

- (a) the person to whom the data is to be transmitted,
- (b) the data that is required to be transmitted,
- (c) the method by which the data is to be transmitted,
- (d) the frequency with which data is to be transmitted,
- (e) controls relating to limiting access to, and preventing tampering with, telemetry equipment.

7 Validation of metering equipment

- (1) Metering equipment (other than metering equipment installed in connection with an open channel) must be validated by a duly qualified person on installation, at intervals of not more than 5 years and in any other circumstances in which metering equipment is required by AS 4747 to be validated.
- (2) Metering equipment installed in connection with an open channel must be validated by a duly qualified person on installation, at intervals of not more than 12 months and in any other circumstances in which metering equipment is required by AS 4747 to be validated.
- (3) Metering equipment must be modified or replaced so as to meet the requirements for compliance specified with respect to AS 4747 by a duly qualified person in a certificate following a validation.
- (4) Metering equipment that has been modified or replaced in accordance with this clause must be validated by a duly qualified person.

8 Transitional arrangements for validation of existing metering equipment

- (1) This clause applies to metering equipment that was installed in connection with a work before 1 April 2019 if the equipment was:
 - (a) validated by a duly qualified person in accordance with AS 4747 within 5 years before the application day for the equipment (in the case of metering equipment that is not installed in connection with an open channel) or within 12 months before the application day for the equipment (in the case of metering equipment that is installed in connection with an open channel) (the **existing validation**), and
 - (b) found by the duly qualified person to comply with the matters required to be checked on validation.
- (2) For the purposes of the application of clause 7 to metering equipment that is:
 - (a) not metering equipment installed in connection with an open channel, the first interval of 5 years for validation after the application day is taken to end 5 years

after the existing validation, or

(b) metering equipment installed in connection with an open channel, the first interval of 12 months for validation after the application day is taken to end 12 months after the existing validation.

(3) A report must be given to the Minister by a person who intends to rely on this clause setting out the steps taken in relation to the metering equipment.

(4) The report must be:

(a) given before the application day for the mandatory metering condition for the metering equipment, and

(b) given in the approved form and manner, and

(c) accompanied by any documents given by the duly qualified person to the person reporting and relating to the checks carried out by the duly qualified person.

9 Transitional arrangements for existing metering equipment that is not pattern approved

(1) This clause applies to metering equipment that was installed in connection with a work before 1 April 2019 and was not pattern approved.

(2) Metering equipment does not need to be pattern approved (as referred to in clause 3) if:

(a) the metering equipment is metering equipment to which clause 8 (1) applies, and

(b) the holder of the authority concerned provides written certification to the Minister from the manufacturer that the maximum permissible error of the metering equipment did not exceed plus or minus 2.5% after manufacture.

(3) Metering equipment does not need to be pattern approved (as referred to in clause 3) or validated (as referred to in clause 7) if:

(a) within 5 years before the application day for the equipment (in the case of metering equipment that is not installed in connection with an open channel) or within 12 months before the application day for the equipment (in the case of metering equipment that is installed in connection with an open channel) the metering equipment is:

(i) checked for accuracy by a duly qualified person, and

(ii) checked again by a duly qualified person after that check at intervals of not more than 5 years (in the case of metering equipment that is not installed in connection with an open channel) or 12 months (in the case of metering equipment that is installed in connection with an open channel), and

- (b) those checks determine that the maximum permissible error of the metering equipment does not exceed plus or minus 5% in the field.
- (4) A record must be kept of the way in which metering equipment is checked under subclause (3).
- (5) A report must be given to the Minister by a person who intends to rely on this clause setting out the steps taken in relation to the metering equipment.
- (6) The report must be:
 - (a) given to the Minister before the application day for the mandatory metering condition that applies to the metering equipment and as soon as practicable after each subsequent occasion on which a check is carried out under this clause, and
 - (b) given in the approved form and manner, and
 - (c) accompanied by any documents given by the duly qualified person to the person reporting and relating to the checks carried out by the duly qualified person.

10 Approved data logging and telemetry specifications

- (1) The Minister may, by notice published in the Gazette, approve data logging and telemetry specifications for the purposes of this Schedule.
- (2) The Minister may, by notice published in the Gazette, amend or revoke the data logging and telemetry specifications.

Schedule 9 Water sources requiring metering equipment for small water supply works

(Clause 231 (4) (b))

A water source to which one of the following water sharing plans applies (as in force on the commencement of this Schedule):

- (a) [Water Sharing Plan for the Lower Gwydir Groundwater Source 2003](#),
- (b) [Water Sharing Plan for the Lower Lachlan Groundwater Source 2003](#),
- (c) [Water Sharing Plan for the Lower Macquarie Groundwater Sources 2003](#),
- (d) [Water Sharing Plan for the Lower Murray Groundwater Source](#),
- (e) [Water Sharing Plan for the Lower Murrumbidgee Groundwater Sources 2003](#),
- (f) [Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008](#),
- (g) [Water Sharing Plan for the Upper and Lower Namoi Groundwater Sources 2003](#).

The Belubula Valley Alluvial Groundwater Source as described in the [Water Sharing Plan for the](#)

Lachlan Unregulated and Alluvial Water Sources 2012.

The Upper Lachlan Alluvial Groundwater Source as described in the *Water Sharing Plan for the Lachlan Unregulated and Alluvial Water Sources 2012.*

The Lower Darling Alluvial Groundwater Source as described in the *Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011.*

The Bell Alluvial Groundwater Source as described in the *Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012.*

The Cudgong Alluvial Groundwater Source as described in the *Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012.*

The Talbragar Alluvial Groundwater Source as described in the *Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012.*

The Upper Macquarie Alluvial Groundwater Source as described in the *Water Sharing Plan for the Macquarie Bogan Unregulated and Alluvial Water Sources 2012.*

The Upper Murray Groundwater Source as described in the *Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources 2011.*

The Billabong Creek Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Bungendore Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Gundagai Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Kyeamba Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Mid Murrumbidgee Zone 3 Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Wagga Wagga Alluvial Groundwater Source as described in the *Water Sharing Plan for the Murrumbidgee Unregulated and Alluvial Water Sources 2012.*

The Currabubula Alluvial Groundwater Source as described in the *Water Sharing Plan for the Namoi Unregulated and Alluvial Water Sources 2012.*

The Manilla Alluvial Groundwater Source as described in the *Water Sharing Plan for the Namoi Unregulated and Alluvial Water Sources 2012.*

The Quipolly Alluvial Groundwater Source as described in the *Water Sharing Plan for the Namoi Unregulated and Alluvial Water Sources 2012.*

The Quirindi Alluvial Groundwater Source as described in the *Water Sharing Plan for the Namoi Unregulated and Alluvial Water Sources 2012.*

The Macintyre Alluvial Groundwater Source as described in the [Water Sharing Plan for the NSW Border Rivers Unregulated and Alluvial Water Sources 2012](#).

The NSW Border Rivers Downstream Keetah Bridge Alluvial Groundwater Source as described in the [Water Sharing Plan for the NSW Border Rivers Unregulated and Alluvial Water Sources 2012](#).

The NSW Border Rivers Upstream Keetah Bridge Alluvial Groundwater Source as described in the [Water Sharing Plan for the NSW Border Rivers Unregulated and Alluvial Water Sources 2012](#).

The Orange Basalt Groundwater Source as described in the [Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011](#).

The Young Granite Groundwater Source as described in the [Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011](#).

The Gunnedah-Oxley Basin MDB (Spring Ridge) Management Zone of the Gunnedah-Oxley Basin MDB Groundwater Source as described in the [Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011](#).

The Peel Alluvium Water Source as described in the [Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010](#).