

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

[2008-203]



New South Wales

Status Information

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Provisions in force

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

Notes—

- **Repeal**

This Plan was replaced by cl 3 of the [Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2020 \(350\)](#) with effect from 1.7.2020.

Authorisation

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

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



New South Wales

Contents

Part 1 Introduction	8
1 Name of this Plan	8
2 Nature and Status of this Plan	8
3 Date of commencement	8
4 Area to which this Plan applies	8
5 Waters to which this Plan applies	8
6 Interpretation	10
7 Effect on licences, authorities and permits under the Water Act 1912	11
8 State Water Management Outcomes Plan	11
Part 2 Vision, objectives, strategies and performance indicators	11
9 Vision, objectives, strategies and performance indicators.....	11
10 Vision.....	11
11 Objectives.....	11
12 Strategies	12
13 Performance indicators.....	12
Part 3 Basis for water sharing	13
14 Basis for water sharing	13
15 Climatic variability.....	13
16 Extraction management unit for these water sources.....	13
17 Flow reference point.....	14
18 Flow classes for these water sources	15

19 Determination of flow management.....	21
Part 4 Environmental water provisions.....	21
20 Environmental water provisions	21
21 Planned environmental water.....	21
22 (Repealed).....	24
Part 5 Basic landholder rights.....	24
23 Basic landholder rights.....	24
24 Domestic and stock rights.....	24
25 Native title rights.....	25
26 Harvestable rights.....	25
Part 6 Bulk access regime.....	26
27 Bulk access regime.....	26
Part 7 Requirements for water under access licences.....	26
28 Requirements for water under access licences	26
29 Share component of domestic and stock access licences	27
30 Share component of local water utility access licences.....	27
31 Share component of unregulated river access licences.....	27
32 Share component of unregulated river (high flow) access licences.....	28
33 Share component of aquifer access licences.....	28
34 Changes to total share components.....	29
Part 8 Rules for granting access licences.....	29
35 Rules for granting access licences.....	29
Part 9 Rules for granting and amending water supply works approvals	
.....	31
36 Granting and amending water supply works approvals.....	31
37 Runoff harvesting dams and in-river dams.....	32
38 (Repealed).....	32
39 Rules for granting or amending water supply works approvals.....	32
39A Rules for the use of water supply works located within restricted distances.....	36

Part 10 Limits to the availability of water	37
Division 1 Long-term average annual extraction limit	37
40 Limits to the availability of water	37
41 Extraction management units for these water sources	37
42 Long-term average annual extraction limit	37
43 Variation of the long-term average annual extraction limits	37
44 Compliance with the long-term average annual extraction limits	37
Division 2 Available water determinations	39
45 Available water determinations	39
46 Available water determinations for domestic and stock access licences.....	40
47 Available water determinations for local water utility access licences	40
48 Available water determinations for unregulated river access licences	40
49 Available water determinations for unregulated river (high flow) access licences	40
50 Available water determinations for aquifer access licences	41
Part 11 Rules for managing access licences	41
Division 1 General	41
51 Rules for managing access licences	41
Division 2 Water allocation account management	41
52 Water allocation accounts	41
53 Accrual of water allocations.....	42
54 Accounting of assigned allocations and return flows	42
55 Volume taken under access licences	42
56 Limits to the volume that may be taken under access licences	42
57 Carrying over of water allocations credits and water allocation account limits	44
Division 3 Sharing surface water flows on a daily basis	44
58 Sharing surface water flows on a daily basis	44
59 Total daily extraction limits.....	44
60 Initial assignment of the TDEL to categories of access licence	44
61 Unassigned TDEL.....	44

62 Daily extraction limits for individual access licence holders.....	44
63 Granting of unassigned TDEL	44
64 Very low flow access in these water sources	45
65 Access rules for the taking of water from the alluvial sediments in these water sources.....	45
66 Infrastructure failure in these water sources	46
Division 4 Management of local impacts.....	46
67 Management of local impacts.....	46
68 Water level management	47
69 Water quality management	47
70 Infrastructure failure in local impact areas	48
Part 12 Access licence dealing rules	49
71 Access licence dealing rules	49
72 Rules relating to constraints within these water sources.....	50
73 Rules for change of water source	52
74 Rules for conversion of access licence category.....	54
75 Rules for interstate access licence transfer	54
76 Rules for water allocation assignments between water sources	54
77 Rules for interstate assignment of water allocations	56
Part 13 Mandatory conditions	56
Note.....	56
Division 1 General.....	56
78 General.....	56
Division 2 Access licences.....	57
Note.....	57
79 General.....	57
Division 3 Water supply work approvals.....	58
Note.....	58
80 General.....	59
80A Water supply works used to take water from the alluvial sediments.....	61

Part 14 Monitoring and reporting	62
81 Monitoring and reporting of performance indicators	62
Part 15 Amendment of this Plan	63
82 Amendment of this Plan	63
83 Amendments due to floodplain harvesting	63
84 Amendments for Coastal Sands Water Source	64
85 Amendments for alluvial aquifers downstream of the tidal limit	64
86 Amendments for stormwater harvesting	64
87 Other amendments to this Plan	64
Dictionary	65
Schedule 2 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan	67
Schedule 3 Licences under the Water Act 1912 or Water Management Act 2000 with access to very low flows	70
Schedule 4 Contamination sources in the Bellinger River Area Unregulated and Alluvial Water Sources	71
Schedule 5 High priority groundwater dependent ecosystems	71
Schedule 6 Beneficial use for the Bellinger River Area Unregulated and Alluvial Water Sources	71
Appendix 1 Bellinger River Area Unregulated and Alluvial Water Sources and the Bellinger River Catchment and the Dalhousie Creek Catchment Extraction Management Units	72
Appendix 2 Inspection of the Plan Map	73

Appendix 3 Office 74

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



New South Wales

Part 1 Introduction

1 Name of this Plan

This Plan is the *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008* (hereafter **this Plan**).

2 Nature and Status of this Plan

- (1) This Plan is made under section 50 (1A) of the *Water Management Act 2000* (hereafter **the Act**).
- (2) This Plan is a plan for water sharing, and covers the provisions of sections 20 (1), 20 (2) (a) to 20 (2) (e), 20 (3), 20 (4), 21 (a) to 21 (c) and 21 (f) of the Act and dispenses with section 16 of the Act.

3 Date of commencement

This Plan takes effect on 1 July 2008 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within part of the Upper North Coast Water Management Area, known as the Bellinger River Area Unregulated and Alluvial Water Sources (hereafter **these water sources**).
- (2) These water sources exclude the area of land below the mangrove limit.

Note—

The mangrove limit is as defined in the *DIPNR Survey of tidal limits and mangrove limits in NSW estuaries 1996 to 2003* (NSW Dept of Commerce, Manly Hydraulics Laboratory).

5 Waters to which this Plan applies

- (1) These water sources in respect of which this Plan is made, and shown on the plan map called *Plan Map (WSP0002_Version 1). Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2008* (hereafter **the Plan Map**), are:

- (a) Bellinger River Water Source,
- (b) Boggy Creek Water Source,
- (c) Coastal Bellinger Water Source,

Note—

This water source excludes alluvial groundwater downstream of the tidal limits.

- (d) Coastal Kalang Water Source,

Note—

This water source excludes alluvial groundwater downstream of the tidal limits.

- (e) Dalhousie Creek Water Source,

- (f) Hydes Creek Water Source,

Note—

This water source excludes alluvial groundwater downstream of the tidal limits.

- (g) Kalang River Water Source,

Note—

This water source excludes alluvial groundwater downstream of the tidal limits.

- (h) Never Never Creek Water Source,

- (i) Rosewood Creek Water Source,

- (j) Spicketts Creek Water Source, and

- (k) Thora-North Arm Bellinger River Water Source.

Note—

The Plan Map is part of this Plan. An overview of these water sources is shown in Appendix 1. The Plan Map referred to in this Plan may be inspected at offices listed in Appendix 2 and is available at the NSW Legislation website.

- (2) The Thora-North Arm Bellinger River Water Source is divided into the following management zones and shown on the Plan Map:

- (a) Upper Thora-North Arm Bellinger River Management Zone, and
- (b) Lower Thora-North Arm Bellinger River Management Zone.

- (3) The Bellinger River, Hydes Creek, Kalang River, Coastal Bellinger and Coastal Kalang Water Sources are divided into the following management zones:

- (a) Non Tidal Management Zone, and
- (b) Tidal Pool Management Zone.

- (4) The Minister may under section 45 (1) (b) of the Act amend subclauses (1), (2) and (3) to amend an existing water source or management zone, or establish a new or additional management zones.
- (5) Following an amendment to or the establishment of a water source, management zone or management zones under subclause (4) the Plan Map may be amended.
- (6) The waters of these water sources include:
 - (a) all water occurring on the land surface shown on the Plan Map, including but not limited to all rivers, lakes and wetlands in these water sources, and
 - (b) all groundwater within all alluvial sediments below the surface of the land on the Plan Map, excluding:
 - (i) any alluvial sediments downstream of the tidal limit, excluding the Bellinger River within the Bellinger River Water Source,

Note—

This exclusion applies to part of the Hydes Creek, Kalang River, Coastal Bellinger and Coastal Kalang Water Sources.

- (ii) any groundwater contained in the coastal sands, and
- (iii) any groundwater contained in fractured rock aquifers and basement rocks in the area to which this Plan applies.

Note—

Alluvial groundwater and surface water in water sources with highly connected surface and groundwaters are treated as a single 'resource' within this Plan. Therefore, traditional management of groundwater via sustainable yield and extraction limits is not used within these water sources. Instead, management of surface and groundwater may be linked to surface water flow or groundwater levels. Note however, that this only applies to 'highly' connected alluvial groundwater. Alluvial groundwater that is not contained in the specified water sources is addressed under the Coastal Alluvial Groundwater Sharing Plan (*currently under development*).

6 Interpretation

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

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

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

8 State Water Management Outcomes Plan

This Plan is consistent with the *State Water Management Outcomes Plan* published in the Gazette on 20 December 2002 (hereafter **the SWMOP**) to the extent as described in Schedule 2.

Note—

The *State Water Management Outcomes Plan* published in the Gazette on 20 December 2002 has expired and has not been replaced.

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision of this Plan is to provide healthy and enhanced water dependant ecosystems and equitable water sharing among users in the Bellinger River Area Unregulated and Alluvial Water Sources.

11 Objectives

The objectives of this Plan are to:

- (a) protect, preserve, maintain or enhance the important river flow dependent and high priority groundwater dependent ecosystems of these water sources,
- (b) protect, preserve, maintain or enhance the Aboriginal, cultural and heritage values of these water sources,
- (c) protect basic landholder rights,
- (d) manage these water sources to ensure equitable sharing between users,
- (e) provide opportunities for market based trading of access licences and water allocations within sustainability and system constraints,
- (f) provide sufficient flexibility in water account management to encourage responsible use of available water,

- (g) contribute to the maintenance of water quality,
- (h) provide recognition of the connectivity between surface water and groundwater, and
- (i) adaptively manage these water sources.

Note—

For the purposes of the *Inter-government Agreement on the National Water Initiative (2004)* the environmental and other public benefit outcomes are:

1. the important river flow dependent environmental, Aboriginal, cultural and heritage values of these water sources are protected, preserved, maintained or enhanced,
2. these water sources are managed to ensure equitable sharing between users,
3. basic landholder rights of owners, or occupiers, of land are protected, and
4. the maintenance of water quality contributed to.

12 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules,
- (b) identify water requirements for basic landholder rights,
- (c) identify water requirements for access licences,
- (d) establish rules for granting of access licences and approvals,
- (e) establish rules that place limits on the availability of water for extraction,
- (f) establish rules for making available water determinations,
- (g) establish rules for the operation of water accounts,
- (h) establish rules which specify the circumstances under which water may be extracted,
- (i) establish access licence dealing rules,
- (j) establish performance indicators, and
- (k) identify triggers for and limits to changes to the rules.

13 Performance indicators

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

- (a) change in low flow regime,
- (b) change in moderate to high flow regime,

- (c) change in groundwater extraction relative to the long-term average annual extraction limit,
- (d) change in local water utilities access,
- (e) change in, or maintenance of, ecological value of key water sources and their dependent ecosystems,
- (f) extent to which basic landholder rights requirements have been met,
- (g) extent to which local water utility requirements have been met,
- (h) extent to which native title rights requirements have been met,
- (i) change in economic benefits derived from water extraction and use, and
- (j) extent of recognition of spiritual, social, economic and customary values of water to Aboriginal people.

Part 3 Basis for water sharing

14 Basis for water sharing

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

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow and groundwater level variability in these water sources.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in these water sources within the limits of water availability on a long-term average annual basis,
 - (b) the sharing of flows that occur in specified water sources on a daily basis, and
 - (c) water extraction to maintain groundwater dependent ecosystems.

16 Extraction management unit for these water sources

- (1) The availability of water for extraction from these water sources on a long-term average annual basis will be determined at the level of an extraction management unit.
- (2) The extraction management units of which these water sources are part are known as the Bellinger River Catchment Extraction Management Unit and the Dalhousie Creek Catchment Extraction Management Unit, and are shown on the Plan Map.

- (3) The Bellinger River Catchment Extraction Management Unit consists of the following water sources:
- (a) Bellinger River Water Source,
 - (b) Boggy Creek Water Source,
 - (c) Coastal Bellinger Water Source,
 - (d) Coastal Kalang Water Source,
 - (e) Hydes Creek Water Source,
 - (f) Kalang River Water Source,
 - (g) Never Never Creek Water Source,
 - (h) Rosewood Creek Water Source,
 - (i) Spicketts Creek Water Source, and
 - (j) Thora-North Arm Bellinger River Water Source.
- (4) The Dalhousie Creek Catchment Extraction Management Unit consists of the Dalhousie Creek Water Source.

17 Flow reference point

- (1) Subject to clause 19, for the purposes of this Plan all flows referred to relate to the measured flows at the flow reference points for each water source or management zone specified in clause 18.
- (2) The Minister may under Section 45 (1) (b) of the Act amend the flow reference point for the Boggy Creek Water Source, if following a hydrologic study the Very Low Flow Class is found to be less than visible flow at the end of the system under clause 18 (2) (a) of this Plan.
- (3) The Minister may under Section 45 (1) (b) of the Act amend the flow reference point for the Boggy Creek Water Source, following the establishment of a gauge for the B Class flows under clause 18 (2) (d) of this Plan.
- (4) The Minister may under Section 45 (1) (b) of the Act amend the flow reference point for the Coastal Bellinger Water Source, the Bellinger River Water Source, the Rosewood Creek Water Source, the Never Never Water Source and the Boggy Creek Water Source, if a gauge is installed downstream of the junction of the Bellinger River and Roses Creek, and the site is found suitable as a flow reference point for the individual water sources under clause 18 (2) (b) of this Plan.
- (5) The Plan Map may be amended by the Minister under section 45 (1) (b) of the Act as a

result of the establishment of, or changes to, flow reference points under subclauses (2), (3) and (4), and clause 18 (2) of this Plan.

18 Flow classes for these water sources

- (1) This Plan establishes the following flow classes as the basis for sharing of daily flows from these water sources:

Note—

The following flow classes apply to all access licences extracting from surface water specified for each water source from the commencement date of this Plan, excluding those access licences listed under clause 64 and access licences that nominate a runoff harvesting dam. They will also apply to all existing aquifer access licence holders extracting from alluvial aquifers within 40 metres of the high bank of the river from year six of this Plan. For those aquifer access licences outside the 40 metres daily flow classes will not apply, except where provided under clause 65 (2) of this Plan.

- (a) for the Non Tidal Management Zone of the Bellinger River Water Source, at the Bellinger River gauge at Thora in the Thora-North Arm Bellinger River Water Source:

- (i) the Very Low Flow Class is when flows are at or below 16 megalitres per day (hereafter **ML/day**),

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

- (ii) A Class is when flows are greater than 16 ML/day and less than 95 ML/day, and

Note—

95 ML/day corresponds to the estimated 50th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

- (iii) B Class is when flows are equal or greater than 95 ML/day,

Note—

B Class relates to unregulated river (subcategory "Aboriginal community development") access licences.

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

- (b) for the Tidal Pool Management Zone of the Bellinger River Water Source, at the Bellinger River gauge at Thora in the Thora-North Arm Bellinger River Water Source:

- (i) the Very Low Flow Class is when flows are at or below 16 ML/day,

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 16 ML/day and less than 95 ML/day, and

Note—

95 ML/day corresponds to the estimated 50th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(iii) B Class is when flows are equal or greater than 95 ML/day,

Note—

B Class relates to unregulated river (subcategory “Aboriginal community development”) access licences.

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

Note—

These flow classes may be amended during the life of this Plan based on the outcome of a review of existing hydrological and ecological studies, and salinity monitoring, in accordance with clause 18 (2) (f) of this Plan.

(c) for the Boggy Creek Water Source, at the Bellinger River gauge at Thora in the Thora–North Arm Bellinger River Water Source:

(i) the Very Low Flow Class is when flows are at or below 16 ML/day, and

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 16 ML/day,

Note—

These flow classes may be amended based on the outcomes of a hydrological study of end of system flows, in accordance with clause 18 (2) (a) of this Plan.

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

Note—

These flow classes may be amended if an unregulated river (subcategory “Aboriginal community development”) access licence is granted in this water source, in accordance with clause 18 (2) (d) and 18 (2) (e) of this Plan.

(d) for the Non Tidal Management Zone of the Coastal Bellinger Water Source, no flow classes are established for this Plan,

(e) for the Tidal Pool Management Zone of the Coastal Bellinger Water Source, at the

Bellinger River gauge at Thora in the Thora-North Arm Bellinger River Water Source:

(i) the Very Low Flow Class is when flows are at or below 16 ML/day,

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 16 ML/day and less than 95 ML/day, and

Note—

95 ML/day corresponds to the estimated 50th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(iii) B Class is when flows are equal or greater than 95 ML/day,

Note—

B Class relates to unregulated river (subcategory “Aboriginal community development”) access licences.

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

Note—

These flow classes may be amended during the life of this Plan based on the outcome of a review of existing hydrological and ecological studies, and salinity monitoring, in accordance with clause 18 (2) (f) of this Plan.

(f) for the Non Tidal Management Zone of the Coastal Kalang Water Source, no flow classes are established for this Plan,

Note—

Flow classes may be established if an unregulated river (subcategory “Aboriginal community development”) access licence is granted in this water source, in accordance with clause 18 (2) (e) of this Plan.

(g) for the Tidal Pool Management Zone of the Coastal Kalang Water Source, at the Sunny Corner Road crossing in the Kalang River Water Source:

(i) for the first five years of this Plan, the Very Low Flow Class is when flows are at or below 2 ML/day, thereafter the Very Low Flow Class is when flows are at or below 4 ML/day,

Note—

2 ML/day corresponds to the estimated 99.5th percentile and 4 ML/day corresponds to the estimated 98th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) for the first five years of this Plan, A Class is when flows are greater than 2 ML/

day, thereafter A Class is when flows are greater than 4 ML/day,

Note—

These flow classes may be amended if an unregulated river (subcategory “Aboriginal community development”) access licence is granted in this water source, in accordance with clause 18 (2) (e) of this Plan.

Note—

These flow classes may be amended during the life of this Plan based on the outcome of a review of existing hydrological and ecological studies, and salinity monitoring, in accordance with clause 18 (2) (f) of this Plan.

(h) for the Dalhousie Creek Water Source, no flow classes are established for this Plan,

(i) for the Non Tidal and Tidal Pool Management Zones of the Hydes Creek Water Source, at Kethels Road bridge:

(i) the Very Low Flow Class is when flows are at or below 1 ML/day, and

Note—

1 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 1 ML/day,

Note—

These flow classes may be amended if an unregulated river (high flow) access licence or unregulated river (subcategory “Aboriginal community development”) access licence is granted in this water source, in accordance with clause 18 (2) (e) of this Plan.

Note—

These flow classes may be amended during the life of this Plan based on the outcome of a review of existing hydrological and ecological studies, and salinity monitoring, in accordance with clause 18 (2) (f) of this Plan.

(j) for the Non Tidal and Tidal Pool Management Zones of the Kalang River Water Source, at the Sunny Corner Road crossing:

(i) for the first five years of this Plan, the Very Low Flow Class is when flows are at or below 2 ML/day, thereafter the Very Low Flow Class is when flows are at or below 4 ML/day,

Note—

2 ML/day corresponds to the estimated 99.5th percentile and 4 ML/day corresponds to the estimated 98th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) for the first five years of this Plan, A Class is when flows are greater than 2 ML/

day, thereafter A Class is when flows are greater than 4 ML/day,

(k) for the Never Never Creek Water Source, at Promised Land Loop Road, immediately upstream of the Arthur Keogh Reserve:

(i) the Very Low Flow Class is when flows are at or below 2 ML/day, and

Note—

2 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 2 ML/day,

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

Note—

These flow classes may be amended if an unregulated river (high flow) access licence is granted in this water source, in accordance with clause 18 (2) (e) of this Plan.

(l) for the Rosewood Creek Water Source, at the Bellinger River gauge at Thora in the Thora-North Arm Bellinger River Water Source:

(i) the Very Low Flow Class is when flows are at or below 16 ML/day, and

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month at the gauge and include all days of record.

(ii) A Class is when flows are greater than 16 ML/day,

Note—

These flow classes may be amended if a gauging station is installed within or close to the water source, in accordance with clause 18 (2) (b) of this Plan.

(m) for the Spicketts Creek Water Source, no flow classes are established for this Plan, and

Note—

Flow classes may be established if an unregulated river (subcategory "Aboriginal community development") access licence is granted in this water source, in accordance with clause 18 (2) (e) of this Plan.

(n) for the Thora-North Arm Bellinger River Water Source, at the Bellinger River gauge at Thora:

(i) the Very Low Flow Class is when flows are at or below 16 ML/day, and

Note—

16 ML/day corresponds to the estimated 95th percentile. The percentiles refer to lowest flow month

at the gauge and include all days of record.

(ii) A Class is when flows are greater than 16 ML/day.

(2) The Minister may under section 45 (1) (b) of the Act amend subclauses (1) (a), (1) (b), (1) (c), (1) (e), (1) (f), (1) (g), (1) (i), (1) (j), (1) (k), (1) (l) and (1) (m) to amend or establish a new or additional flow class or flow classes in:

- (a) the Boggy Creek Water Source, if following a hydrologic study the bottom of A Class is found to be less than visible flow at the end of the water source, then the flow classes will change to ensuring extraction of water from a river by an approved water supply work is permitted if there is a visible flow in the river in the downstream vicinity of the water supply work, or where water is being taken from a pool, a visible inflow and outflow to and from that pool,
- (b) the Tidal Pool Management Zone of the Coastal Bellinger Water Source, the Bellinger River Water Source, the Rosewood Creek Water Source, the Never Never Water Source and the Boggy Creek Water Source, if a gauge is installed near the junction of the Bellinger River and Roses Creek and sufficient data collection to enable determination of a cease to pump level at the flow reference point at or below the equivalent to the 95th percentile flow at the end of the management zone,
- (c) the Coastal Bellinger and the Coastal Kalang Water Sources if a Drainage Management Plan, Floodplain Management Plan or similar management plan is developed for all or part of the water sources,
- (d) the Boggy Creek Water Source, if an unregulated river (subcategory “Aboriginal community development”) access licence is granted under clause 35 (2) (f), a gauge may be installed in Boggy Creek and calibrated to the equivalent of a flow that is equal to the 50th percentile daily flow for the B Class,

Note—

The percentiles refer to lowest flow month at the gauge and include all days of record.

- (e) the Boggy Creek Water Source, the Coastal Kalang Water Source, the Hydes Creek Water Source, the Never Never Creek Water Source and the Spicketts Creek Water Source, if an unregulated river access licence is converted to an unregulated river (high flow) access licence under clause 74 (2), or an unregulated river (subcategory “Aboriginal community development”) access licence is granted under clause 35 (2) (f), such that B Class is when flows are greater than a flow that is equal to the 50th percentile daily flow, and

Note—

The percentiles refer to lowest flow month at the gauge and include all days of record.

- (f) the Tidal Pool Management Zones of the Bellinger River, the Coastal Bellinger, the Coastal Kalang and the Hydes Creek Water Sources, during the life of this Plan,

based on a review of salinity monitoring, and ecological and hydrological studies to determine whether the Very Low Flow Classes are under or over satisfying ecological needs in the tidal pool, within the range in variation between visible flow and the 95th percentile at the nominated flow reference point or a salinity threshold equivalent.

19 Determination of flow management

If in the Minister's opinion, on any day accurate flow data is not available from a flow measuring gauge used to determine a flow class specified in clause 18 (1), the Minister may determine the flow class that applies for that day and notify the licence holder in writing, the flow class that applies for that day. For the purpose of this clause, notification includes publishing a notice on the Department's website.

Note—

There is a general requirement for holders of water supply work approvals to record in a Logbook, where one is required to be kept, a confirmation and means of confirmation that the relevant cease to take conditions do not apply before taking water. Holders of access licences may contact the Department's Grafton office at the address listed in Appendix 2 or check the Department's website to find out what flow class applies that day and note this as required in the Logbook. In determining whether access to water is permitted that day, the Minister may take into consideration evidence of past and current flows and readings at other functioning gauges.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (1A), 8 (2), 8 (4), 8A, 8B, 8C, 8D, 8E and 20 (1) (a) of the Act.

21 Planned environmental water

- (1) Planned environmental water is identified and established in these water sources as follows:
 - (a) water volume in excess of the respective long-term average annual extraction limit established in clause 42 of this Plan may not be taken and used for any purpose in these water sources, thereby protecting a proportion of river flows for fundamental ecosystem needs from increases in long-term water extraction, and
 - (b) for all water sources, the water remaining in the water source after taking water to meet basic landholder rights and for access licences in accordance with the rules identified in clause 21 (3).
- (2) The planned environmental water established in clause 21 (1) (a) for these water sources is maintained by the rules in clause 44 that limit the availability of water for extraction under access licences, thereby protecting a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.
- (3) Subject to subclause (5), the planned environmental water established in clause 21

(1) (b) is maintained as follows:

- (a) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies a water source or an extraction component that specifies a management zone with a Very Low Flow Class that has commenced, when flows are in the relevant Very Low Flow Class,

Note—

Water sources and management zones with a Very Low Flow Class are specified in clause 18.

- (b) subject to paragraph (g), water must not be taken under an access licence where a cease to take condition that was specified on the *Water Act 1912* entitlement that the access licence replaces is, in the Minister's opinion, higher than:

(i) the upper limit of the relevant Very Low Flow Class (as specified in clause 18),
or

(ii) the access rule specified in paragraph (c),

when flows are at or less than the cease to take condition that was specified on the replaced *Water Act 1912* entitlement,

- (c) subject to paragraph (g), an access licence must not be used to take water:

(i) if there is no visible flow in the water source at the location at which water is proposed to be taken, or

(ii) where water is being taken from a pool, if there is no visible inflow and outflow to and from that pool,

- (d) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Bellinger River Water Source for more than 8 hours per day when the flow of water in the Bellinger River at the Bellinger River at Thora gauge is greater than 16 ML/day and less than or equal to 32 ML/day,

- (e) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Hydes Creek Water Source for more than 8 hours per day when the flow of water in Hydes Creek at the Hydes Creek at Kethels Road Bridge gauge is greater than 1 ML/day and less than or equal to 4 ML/day,

- (f) subject to paragraph (g), water must not be taken under an access licence with a share component that specifies the Never Never Water Source for more than 8 hours per day when the flow of water in Never Never Creek at Promised Land Loop Road immediately upstream of the Arthur Keogh Reserve is greater than 2 ML/day and less than or equal to 9 ML/day,

- (g) paragraphs (a)–(f) do not apply to the following:

- (i) the taking of water under an access licence (excluding a local water utility access licence) to which Schedule 3 applies, for any purpose listed below, provided that the volume of water taken does not exceed 20 kilolitres per day per access licence or such lower amount specified in accordance with paragraph (h):
 - (A) fruit washing,
 - (B) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (C) poultry watering and misting, or
 - (D) cleaning of enclosures used for intensive animal production for the purposes of hygiene,
- (ii) the taking of water from a runoff harvesting dam or from an in-river dam pool,
- (iii) the taking of water under all access licences that nominate a water supply work that may be used to take water from the alluvial sediments in these water sources to which the access rules for unregulated river access licences do not apply as specified in clause 65, and
- (iv) the taking of water for the purposes of town water supply only under a local water utility access licence to which Schedule 3 applies, until such time as the Minister is satisfied that major augmentation of the access licence holder's water supply system has occurred,
- (h) the Minister may, in relation to an access licence to which paragraph (g) (i) applies, amend the licence to reduce the maximum daily volume limit, if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose for the licence as referred to in paragraph (g) (i),
- (i) the access rules specified in clauses 39A and 65 which apply to access licences that nominate a water supply work that may be used to take water from the alluvial sediments in these water sources as specified in those clauses,
- (j) water must not be taken under an unregulated river (high flow) access licence or an unregulated river (subcategory "Aboriginal community development") access licence when flows are in the Very Low Flow Class or A Class,
- (k) water must not be taken from an in-river dam pool unless the in-river dam is passing such flows in such circumstances as specified on the water supply work approval for the in-river dam,
- (l) the flows and circumstances to be specified on the water supply work approval for the in-river dam referred to in paragraph (k) are:
 - (i) the flows and circumstances that were specified in conditions on the [Water Act](#)

1912 entitlement that the approval replaces, or

- (ii) where no flows and circumstances were specified on the [Water Act 1912](#) entitlement, the flows and circumstances determined by the Minister.
- (4) Following the establishment or amendment of a flow class or flow classes within the Bellinger River Water Source, the Boggy Creek Water Source, the Coastal Bellinger Water Source, the Coastal Kalang Water Source, the Hydes Creek Water Source, the Never Never Creek Water Source and the Spicketts Creek Water Source under clause 18 (2) of this Plan, the Minister may under section 45 (1) (b) of the Act, amend subclauses (1), (2) and (3) to identify, establish and maintain planned environmental water in the relevant water source.
- (5) Subclause (3) does not apply to the taking of water under an access licence that is used only to account for the taking of water in association with an aquifer interference activity.

22 (Repealed)

Part 5 Basic landholder rights

23 Basic landholder rights

- (1) This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.
- (2) Basic landholders rights exercised under section 52 of the Act must be exercised in accordance with any established by the Minister with respect to the reasonable use of water for domestic consumption and stock watering by landholders authorised to use water for either or both of those purposes.

Note—

The Minister may issue a direction under section 328 of the Act to restrict the exercise of basic landholder rights from these water sources.

Note—

Water from these water sources should not be consumed without prior treatment that is adequate to ensure its safety. Land use activities may have polluted the groundwater in some areas.

24 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights within these water sources are estimated to total 3.6 megalitres per day (hereafter **ML/day**) and are distributed as follows:
 - (a) 0.4 ML/day in the Bellinger River Water Source,
 - (b) 0.1 ML/day in the Boggy Creek Water Source,
 - (c) 0.8 ML/day in the Coastal Bellinger Water Source,

- (d) 0.6 ML/day in the Coastal Kalang Water Source,
- (e) 0.1 ML/day in the Dalhousie Creek Water Source,
- (f) 0.1 ML/day in the Hydes Creek Water Source,
- (g) 0.5 ML/day in the Kalang River Water Source,
- (h) 0.1 ML/day in the Never Never Creek Water Source,
- (i) 0.1 ML/day in the Rosewood Creek Water Source,
- (j) 0.1 ML/day in the Spicketts Creek Water Source, and
- (k) 0.7 ML/day in the Thora-North Arm Bellinger River Water Source.

- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note—

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

Note—

Increase in use of domestic and stock rights may also occur as a result of an increase in the number of landholdings overlying the alluvial groundwater through subdivision and/or as a result of the increase in the exercise of basic landholder rights by existing landholders.

Note—

The Minister may limit new domestic and stock rights in new subdivisions in any water source by regulation under section 52 (2) of the Act.

25 Native title rights

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

Note—

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

26 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to a harvestable rights order made under section 54 of the Act and published from time to time in the NSW Government Gazette.

Part 6 Bulk access regime

27 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these water sources having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climate variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 10, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 10, Division 1 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Parts 10 and 11 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Part 10 of this Plan.

Part 7 Requirements for water under access licences

28 Requirements for water under access licences

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

Note—

The amount of water specified in this Part represents the total volumes or unit shares specified in the share components on access licences in these water sources. The actual volumes of water available at any time will depend on climate, access licence priority and the rules in this Plan.

29 Share component of domestic and stock access licences

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of domestic and stock access licences authorised to extract water from these water sources will total 128 megalitres per year (hereafter **ML/year**), distributed as follows:

- (a) 14 ML/year in the Bellinger River Water Source,
- (b) 4 ML/year in the Boggy Creek Water Source,
- (c) 2 ML/year in the Coastal Bellinger Water Source,
- (d) 0 ML/year in the Coastal Kalang Water Source,
- (e) 26 ML/year in the Dalhousie Creek Water Source,
- (f) 1 ML/year in the Hydes Creek Water Source,
- (g) 0 ML/year in the Kalang River Water Source,
- (h) 15 ML/year in the Never Never Creek Water Source,
- (i) 3 ML/year in the Rosewood Creek Water Source,
- (j) 0 ML/year in the Spicketts Creek Water Source, and
- (k) 63 ML/year in the Thora–North Arm Bellinger River Water Source.

30 Share component of local water utility access licences

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of local water utility access licences authorised to extract water from these water sources will total 1,613 ML/year, distributed as follows:

- (a) 1,613 ML/year in the Bellinger River Water Source,
- (b) 0 ML/year in all other water sources.

31 Share component of unregulated river access licences

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of unregulated river access licences authorised to extract water from these water sources will total 2,993 unit shares, distributed as follows:

- (a) 1,011 unit shares in the Bellinger River Water Source,
- (b) 20 unit shares in the Boggy Creek Water Source,
- (c) 90 unit shares in the Coastal Bellinger Water Source,

- (d) 124 unit shares in the Coastal Kalang Water Source,
- (e) 191 unit shares in the Dalhousie Creek Water Source,
- (f) 429 unit shares in the Hydes Creek Water Source,
- (g) 18 unit shares in the Kalang River Water Source,
- (h) 723 unit shares in the Never Never Creek Water Source,
- (i) 11 unit shares in the Rosewood Creek Water Source,
- (j) 7 unit shares in the Spicketts Creek Water Source, and
- (k) 369 unit shares in the Thora–North Arm Bellinger River Water Source.

32 Share component of unregulated river (high flow) access licences

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of unregulated river (high flow) access licences authorised to extract water from these water sources will total 0 unit shares, distributed as follows:

- (a) 0 unit shares in the Never Never Water Source, and
- (b) 0 unit shares in the Hydes Creek Water Source.

Note—

The water sources listed above are the only water sources within the Plan area which have been identified as suitable for unregulated river (high flow) access licences. This Plan allows for a specified amount of unregulated river access licences to be converted to unregulated river (high flow) access licences. However, at the commencement of this Plan, there are no existing access licences of this category, hence the 0 unit shares indicated.

33 Share component of aquifer access licences

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of aquifer access licences authorised to extract water from these water sources will total 228 unit shares, distributed as follows:

- (a) 70 unit shares in the Bellinger River Water Source,
- (b) 0 unit shares in the Boggy Creek Water Source,
- (c) 19 unit shares in the Coastal Bellinger Water Source,
- (d) 0 unit shares in the Coastal Kalang Water Source,
- (e) 0 unit shares in the Dalhousie Creek Water Source,
- (f) 120 unit shares in the Hydes Creek Water Source,

- (g) 3 unit shares in the Kalang River Water Source,
- (h) 6 unit shares in the Never Never Creek Water Source,
- (i) 0 unit shares in the Rosewood Creek Water Source,
- (j) 0 unit shares in the Spicketts Creek Water Source, and
- (k) 10 unit shares in the Thora-North Arm Bellinger River Water Source.

Note—

The total share components for aquifer access licences specified in these water sources could be higher as a result of additional share components for unidentified aquifer access licences in the alluvial groundwater.

34 Changes to total share components

This Plan recognises that the total requirements for water for extraction within these water sources may change during the term of this Plan as a result of:

- (a) the granting, surrender or cancellation of access licences,
- (b) the granting, surrender or cancellation of access licences through a dealing under Part 12 of this Plan, and
- (c) the variation of local water utility licences under section 66 of the Act.

Note—

The total share components identified in this Part may also change due to volumetric conversion of Water Act licenses that are currently non-volumetric.

Part 8 Rules for granting access licences

35 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b), 61 and 63 of the Act, having regard to the limits to water availability in these water sources and the need to protect dependent ecosystems.
- (2) Applications for access licences may be made and access licences granted in these water sources, if the application is for:
 - (a) a specific purpose access licence for which application is provided for under clause 19 of the *Water Management (General) Regulation 2004* (hereafter **the Regulation**) in accordance with section 61 (1) (a) of the Act,

Note—

At the commencement of this Plan, clause 19 of the Regulation provides for the following specific purpose access licences to be applied for:

- (i) a local water utility access licence (subcategory “domestic and commercial”), for the purpose of

domestic consumption and commercial activities,

- (ii) a domestic and stock access licence (subcategory “domestic”), for the purpose of domestic consumption,
- (iii) an unregulated river access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
- (iv) an aquifer access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities, and
- (v) any category of specific purpose access licence (subcategory “Aboriginal cultural”), for Aboriginal cultural purposes.

Note—

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

- (b) an access licence with a zero share component in accordance with sections 61 (1) (b) and 63 (5) of the Act,
- (c) an access licence that may be granted in accordance with a dealing that is permitted by Part 12 of this Plan,

Note—

Dealings include the conversion of unregulated river access licences to unregulated river (high flow) access licences as specified in clause 74 of this Plan.

- (d) any category of specific purpose access licence (subcategory “Aboriginal cultural”), for Aboriginal cultural purposes, up to 10 ML/year per application,
- (e) an unregulated river access licence, or domestic and/or stock access licence in the Tidal Pool Management Zone where a history of extraction in the Tidal Pool Management Zone can be demonstrated prior to the 30 June 2006, and
- (f) an unregulated river (subcategory “Aboriginal community development”) access licence, that can extract water from B Class flows only, has no more than minimal harm at the water source level impact assessment and provided no more than the following total unregulated river (subcategory “Aboriginal community development”) access licence share component has ever been issued or will cause the following total share component to be exceeded, in the respective water sources:
 - (i) 500 unit shares in the Bellinger River Water Source,
 - (ii) 91.5 unit shares in the Boggy Creek Water Source,
 - (iii) 500 unit shares in the Coastal Bellinger Water Source,
 - (iv) 500 unit shares in the Coastal Kalang Water Sources,

(v) 183 unit shares in the Hydes Creek Water Source, and

(vi) 146.4 unit shares in the Spicketts Creek Water Source.

Note—

Approval for granting of an unregulated river (subcategory “Aboriginal community development”) access licence will be subject to assessment of the application in regard to the level of impact of the proposed extraction. This should include consideration of the potential impact on high flow (eg flows greater than the 50th percentile flow) values, and any potential impact on the water source as a whole.

Note—

An unregulated river (subcategory “Aboriginal community development”) access licence is a specific purpose access licence and as such can only be the subject of limited trade that is consistent with the purpose for which the licence was granted. Aboriginal communities, enterprises and individuals are encouraged to seek financial assistance from funding bodies to purchase other categories of access licence if they require fully tradable licences.

- (3) Licences under subclause (2) (e) can only be granted to those water users previously exempted from requiring a [Water Act 1912](#) entitlement.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share component sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from:
 - (a) section 61 (1) (c), of the Act, where the right has been acquired by auction, tender or other open market process, or
 - (b) an access licence dealing, or
 - (c) subclause (2) (e).
- (6) Where total daily extraction limits have been established in a water source, any new access licence granted in the water sources, in accordance with this clause must have a share component within the respective total daily extraction limit initially assigned.
- (7) Where flow classes have not been established in a water source, any new access licence granted in the water sources, in accordance with subclause (2) (a) shall only be permitted to take water when flows exceed a level to be determined by the Minister and specified on the access licence.

Part 9 Rules for granting and amending water supply works approvals

36 Granting and amending water supply works approvals

This Part is made in accordance with sections 21 (b) and 21 (e) of the Act.

37 Runoff harvesting dams and in-river dams

If the sum of the share components of access licences nominating a water supply work that is a runoff harvesting dam or an in-river dam is reduced via:

- (a) a dealing,
- (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent cancellation of an access licence under section 77A (6) of the Act,
- (c) the amendment of the share component of the access licence by the Minister under section 68A, or
- (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act,

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

Note—

Runoff harvesting dam and in-river dam are defined in the Dictionary.

38 (Repealed)

39 Rules for granting or amending water supply works approvals

- (1) This clause is made in accordance with sections 21 (c) and 21 (e) of the Act, to minimise extraction interference between neighbouring bores and to ensure no more than minimal harm to groundwater sources and their dependent ecosystems.

Note—

Extracting groundwater results in the draw down of water levels in the vicinity of the extraction. It is important to manage these local effects. Extraction may result in unacceptable water level declines in other works/bore close by, increasing the pumping costs associated with this extraction, or even cutting off supply altogether. It may interfere with the results of the regional water level monitoring undertaken by the Department. It may also lower the water levels in groundwater dependent ecosystems and cultural features close by. Finally, it may mobilise contaminated groundwater in the area, drawing it towards to point of extraction. It is important, therefore, to manage the location at which groundwater is extracted to minimise these local impacts. This is achieved in this clause by applying minimum distance condition to works.

- (2) To minimise interference between water supply works in these water sources, the Minister must not grant an approval under section 95 of the Act or amend an approval under section 107 of the Act, where a water supply work being constructed or used to take water from the alluvial sediments in these water sources is proposed to be located within:
 - (a) 200 metres of a water supply work being constructed or used to take water from the alluvial sediments in these water sources nominated by another access licence,

- (b) 200 metres of a water supply work being constructed or used to take water from the alluvial sediments in these water sources from which basic landholder rights is being extracted,
- (c) 100 metres from the property boundary, unless negotiated with a neighbour for a lesser distance,
- (d) 500 metres from a water supply work being constructed or used to take water from the alluvial sediments in these water sources from a local water utility or a major utility, and
- (e) 100 metres from a Departmental observation or monitoring bore, unless a lesser distance is negotiated with the Department.

Note—

The distance restrictions in this clause apply to new or amended approvals. The distance restrictions also apply when a licence holder wants to nominate new or different works on an access licence.

- (3) The distance restrictions specified in subclause (2) does not apply where:
 - (a) the application relates to a work solely for the purpose of exercising basic landholder rights, or
 - (b) the application is for a replacement bore.
- (4) The distance restrictions specified in subclause (2) do not apply if:
 - (a) a hydrogeological study undertaken by the applicant, and assessed as adequate by the Minister, demonstrates minimal potential for adverse impacts on existing authorised extraction,
 - (b) all potentially affected access licence or approval holders have been notified by the proponent, and

Note—

Potentially affected access licence holders are typically neighbouring access licence or approval holders and those in the near vicinity.

- (c) there is a process for remediation in the event that any adverse impact occurs in the future, specified as conditions on the access licence.
- (5) Pursuant to section 45 (1) (b) of the Act, the Minister may add to or vary the distance restriction in subclause (2) to minimise the interference between authorised extraction after year 5 of this Plan or if the Minister identifies the need for further restrictions in a local impact area established under Division 4 of Part 11 of this Plan.
- (6) The Minister must not grant an approval under section 95 of the Act or amend an approval under section 107 of the Act, where a water supply work being constructed or used to take water from the alluvial sediments in these water sources is proposed

to be located within:

- (a) 100 metres of a contamination source as listed in Schedule 4, unless the proponent can demonstrate to the Minister's satisfaction that a lesser distance will result in no more than minimal harm to the water source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health, or
 - (b) a greater distance than in paragraph (a) that the Minister nominates in order to ensure that no more than minimal harm will occur to the groundwater source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health.
- (7) Extraction of groundwater from a new water supply work being constructed or used to take water from the alluvial sediments in these water sources for any purpose between 100 metres and 500 metres of a contamination source as listed in Schedule 4, will require:
- (a) an application to the Minister by the licence holder providing evidence that no drawdown of the groundwater within 100 metres of a contamination source will occur,
 - (b) the Minister to assess the application as adequate, and
 - (c) the Minister to approve the application.
- (8) Subclauses (6) and (7) may be applied by the Minister in relation to contamination sources not on Schedule 4, based on the results of a site inspection or other relevant information provided to the Minister.
- (9) Pursuant to section 45 (1) (b) of the Act, the Minister may vary Schedule 4 by inclusion or deletion of a contamination source based on the results of a site inspection or other relevant information provided to the Minister on that contamination source.
- (10) Unless the application is for a replacement water supply work that is part of a bore network for a local water utility or town water supply, the Minister must not grant a new approval under section 95, or an amended approval under section 107 in these water sources, if it would result in a water supply work being constructed or used to take water from the alluvial sediments in these water sources being authorised to extract water:
- (a) for basic landholders rights only, within 100 metres of a high priority groundwater dependent ecosystem, excluding high priority karst environment groundwater dependent ecosystems, listed in and shown on the maps in Schedule 5, or
 - (b) from an access licence, within 200 metres of a high priority groundwater

dependent ecosystem, excluding high priority karst environment groundwater dependent ecosystems, listed in and shown on the maps in Schedule 5, or

- (c) within 500 metres of a high priority karst environment groundwater dependent ecosystem, listed in and shown on the maps in Schedule 5, or
- (d) within 40 metres of the top of the high bank of any third order or above stream, or lagoon, or
- (e) within 40 metres of any first and second order stream, unless the water supply work being constructed or used to take water from the alluvial sediments in these water sources is drilled into the underlying parent material, and the slotted intervals of the works commences deeper than 30 metres.

Note—

Subclause (10) will not apply to current authorised extraction from an existing water supply work which may be used to take water from the alluvial sediments in these water sources at current or equal share component.

- (11) The distance restrictions specified in subclause 10 (a) and (b) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that no drawdown of water will occur at the perimeter of any groundwater dependent ecosystem listed in Schedule 5.
- (12) The distance restriction specified in subclause 10 (e) does not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that a water supply work being constructed or used to take water from the alluvial sediments in these water sources will have minimal impact on base flows in the stream.
- (12A) For the purpose of subclauses (11) and (12) the Minister may require the applicant to submit a hydrogeological study.
- (13) Subclause (10) (d) and (10) (e) does not apply to a new water supply work being constructed or used to take water from the alluvial sediments in these water sources required as part of a dealing involving the conversion of an unregulated river access licence to an aquifer access licence under section 71O of the Act and clause 74 of this Plan.
- (14) Pursuant to section 45 (1) (b) of the Act, the Minister may amend the exclusion distances in subclauses (10) based on the outcomes of further studies of groundwater ecosystem dependency undertaken or assessed by the Minister.
- (15) Pursuant to section 45 (1) (b) of the Act, the Minister may identify further high priority groundwater dependent ecosystems and include them in Schedule 5 after year 5 of the Plan, based on further studies of groundwater ecosystem dependency undertaken or assessed by the Minister.

- (16) Pursuant to section 45 (1) (b) of the Act, the Minister may identify that a high priority groundwater dependent ecosystem in Schedule 5 does not have groundwater dependency and delete it from Schedule 5, based on further studies of groundwater ecosystem dependency undertaken by the Minister.
- (17) The distance restrictions specified in subclauses (2), (6), (7) and (10) do not apply if the Minister is satisfied that the water supply work being constructed or used to take water from the alluvial sediments in these water sources is for monitoring or environmental management or remedial purposes.

39A Rules for the use of water supply works located within restricted distances

- (1) The rules in this clause apply to water supply work approvals for water supply works that are authorised to take water from the alluvial sediments in these water sources.
- (2) Subject to subclauses (3) and (4), a water supply work that is located within a restricted distance specified in clause 39, must not, in any water year, be used to take more water than the volume of water that is equal to the sum of the share components of the access licences nominating that water supply work at the commencement of this Plan.
- (3) Subject to subclause (4), a water supply work that becomes located within a restricted distance specified in clause 39, as a result of an amendment to this Plan must not, in any water year, be used to take more water than the volume of water that is equal to the sum of share components of access licences nominating that water supply work at the date of the amendment.
- (4) Subclauses (2) and (3) do not apply:
- (a) where a restricted distance does not apply in accordance with clause 39 (3) (a), (4), (6), (11), (12), or (17), or
 - (b) to the taking of water pursuant to basic landholder rights.
- (5) The Minister may specify a daily rate or annual volumetric limit for water taken by a water supply work that is located within a restricted distance specified in clause 39 pursuant to clause 39 (4), (6), (7), (11) and (12).
- (6) The daily rate or annual volumetric limit specified under subclause (5) will be as determined by the Minister to meet the relevant criteria specified in clauses 39 (4), (6), (7), (11) and (12).

Note—

The water quality from any bore can be affected by land use activities and inherent water quality in the aquifer. Water quality cannot be guaranteed and may be unsuitable for human consumption and other uses. The quality of water extracted should be tested before being used and appropriately treated. Such testing and treatment is the responsibility of the licence holder.

Part 10 Limits to the availability of water

Division 1 Long-term average annual extraction limit

40 Limits to the availability of water

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

41 Extraction management units for these water sources

In accordance with clause 16 of this Plan, management of the long-term average annual extraction of water in these water sources will be undertaken in the context of the Bellinger River Catchment and Dalhousie Creek Catchment Extraction Management Units (hereafter **these Units**).

42 Long-term average annual extraction limit

The long-term average annual extraction limit for each of these Units will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the [Water Act 1912](#) in the Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for the Unit, plus
- (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in the Unit at the commencement of this Plan, plus
- (c) the sum of share components of access licences granted under clause 35 (2) (a), clause 35 (2) (e) and clause 35 (2) (f) in the Unit.

43 Variation of the long-term average annual extraction limits

- (1) The long-term average annual extraction limit of these Units may be varied by the Minister if surface water dealings under Part 12 of this Plan result in issuing or cancellation of access licences in these Unit.
- (2) The long-term average annual extraction limit for the Bellinger River Catchment Extraction Management Unit may be varied upon the conversion of access licences from unregulated river access licence to an unregulated river (high flow) access licence.
- (3) The variation in subclause (2) will result in the long-term average annual extraction limit being reduced by the amount of the cancelled share component of the unregulated river access licence and increased by the amount of the share component of the granted unregulated river (high flow) access licence.

44 Compliance with the long-term average annual extraction limits

- (1) The total water extracted pursuant to basic landholder rights and access licences in these Units will be assessed each water year to determine if the long-term average

annual extraction limit established by clause 42 for each extraction management unit has been exceeded.

Note—

A water year is defined in Schedule 1 as any 12 month period from 1 July.

- (2) Commencing in the fourth water year in which this Plan has effect, the assessment referred to in subclause (1) must compare the long-term average annual extraction limits established in clause 42 for the respective extraction management unit against the annual extraction averaged over the preceding three water years for that extraction management unit.
- (3) If the 3 year average of extraction in these Units exceeds the long-term average annual extraction limit established in clause 42 by 5% or greater, then the available water determination made for unregulated river access licences under clause 48 (1), for the following water year for unregulated river access licences in these water sources shall be reduced by an amount that is assessed as necessary by the Minister to return subsequent total water extraction in these Units to the long-term average annual extraction limit.
- (4) If the 3 year average of extraction in these Units is less than 95% of the long-term average annual extraction limit established in clause 42, the available water determination made under clause 48 (1) for the following water year for unregulated river access licences in these water sources shall be increased to such an extent as to allow total water extraction in these Units to increase to that extraction limit.

Note—

The effect of this subclause and clause 48 is that available water determinations for unregulated river access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

- (5) Any reduction or increase to the available water determinations made under clause 48 (1) for unregulated river access licences in these water sources as a result of subclause (3) or (4) should be repeated for each of the subsequent two water years.
- (6) If the 3 year average of extraction in these Units exceeds the long-term average annual extraction limit established in clause 42 by 5% or greater, then the available water determination made for unregulated river (high flow) access licences under clause 49 (1), for the following water year for unregulated river (high flow) access licences in these water sources shall be reduced by an amount that is assessed as necessary by the Minister to return subsequent total water extraction in these Units to the long-term average annual extraction limit.
- (7) If the 3 year average of extraction in these Units is less than 95% of the long-term average annual extraction limit established in clause 42, the available water determination made under clause 49 (1) for the following water year for unregulated river (high flow) access licences in these water sources shall be increased to such an

extent as to allow total water extraction in these Units to increase to that extraction limit.

Note—

The effect of this subclause and clause 49 is that available water determinations for unregulated river (high flow) access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

- (8) Any reduction or increase to the available water determinations made under clause 49 (1) for unregulated river (high flow) access licences in these water sources as a result of subclause (6) or (7) should be repeated for each of the subsequent two water years.
- (9) If the 3 year average of extraction in these Units exceeds the long-term average annual extraction limit established in clause 42 by 5% or greater, then the available water determination made for aquifer access licences under clause 50 (1), for the following water year for aquifer access licences in these water sources shall be reduced by an amount that is assessed as necessary by the Minister to return subsequent total water extraction in these Units to the long-term average annual extraction limit.
- (10) If the 3 year average of extraction in these Units is less than 95% of the long-term average annual extraction limit established in clause 42, the available water determination made under clause 50 (1) for the following water year for aquifer access licences in these water sources shall be increased to such an extent as to allow total water extraction in these Units to increase to that extraction limit.

Note—

The effect of this subclause and clause 50 is that available water determinations for aquifer access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

- (11) Any reduction or increase to the available water determinations made under clause 50 (1) for aquifer access licences in these water sources as a result of subclause (9) or (10) should be repeated for each of the subsequent two water years.

Division 2 Available water determinations

45 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) All available water determinations in these water sources shall be expressed as either:
 - (a) a percentage of the share component for all access licences where share components are specified as megalitres per year, or
 - (b) megalitres per unit share for all access licences where share components are specified as a number of unit shares.

46 Available water determinations for domestic and stock access licences

- (1) An available water determination shall be made at the commencement of each water year for domestic and stock access licences in these water sources and shall provide an allocation of 100% of share components, except where the available water determination is made under subclause (2).
- (2) The available water determination made at the commencement of the first year of this Plan, for domestic and stock access licences in these water sources, shall provide an allocation of 200% of share components.

47 Available water determinations for local water utility access licences

- (1) An available water determination shall be made at the commencement of each water year for local water utility access licences in these water sources and shall provide an allocation of 100% of share components, except where the available water determination is made under subclause (2).
- (2) The available water determination made at the commencement of the first year of this Plan, for local water utility access licences in these water sources, shall provide an allocation of 200% of share components.

48 Available water determinations for unregulated river access licences

- (1) An available water determination shall be made at the commencement of each water year for unregulated river access licences in these water sources and shall provide an allocation equal to 1 megalitre multiplied by the number of unit shares in the share component, or such lower amount as results from clauses 44 (3) or 44 (4), except where the available water determination is made under subclause (2).
- (2) The available water determination made at the commencement of the first year of this Plan, for unregulated river access licences in these water sources, shall provide an allocation equal to 2 megalitres multiplied by the number of unit shares in the share component.

Note—

The effect of this clause and clause 44 (4) is that available water determinations for unregulated river access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

49 Available water determinations for unregulated river (high flow) access licences

- (1) An available water determination shall be made at the commencement of each water year for unregulated river (high flow) access licences in these water sources and shall provide an allocation equal to 1 megalitre multiplied by the number of unit shares in the share component, or such lower amount as results from clauses 44 (6) or 44 (7), except where the available water determination is made under subclause (2).

- (2) The available water determination made at the commencement of the first year of this Plan, for unregulated river (high flow) access licences in these water sources, shall provide an allocation equal to 2 megalitres multiplied by the number of unit shares in the share component.

Note—

The effect of this clause and clause 44 (7) is that available water determinations for unregulated river (high flow) access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

50 Available water determinations for aquifer access licences

- (1) An available water determination shall be made at the commencement of each water year for aquifer access licences in these water sources and shall provide an allocation equal to 1 megalitre multiplied by the number of unit shares in the share component, or such lower amount as results from clauses 44 (9) or 44 (10), except where the available water determination is made under subclause (2).
- (2) The available water determination made at the commencement of the first year of this Plan, for aquifer access licences in these water sources, shall provide an allocation equal to 2 megalitres multiplied by the number of unit shares in the share component.

Note—

The effect of this clause and clause 44 (10) is that available water determinations for aquifer access licences can never be greater than 1 ML per unit share, except for the available water determination made for the first year of the Plan.

Part 11 Rules for managing access licences

Division 1 General

51 Rules for managing access licences

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

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

Division 2 Water allocation account management

52 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established

for each access licence in these water sources.

53 Accrual of water allocations

Water allocations will be accrued into each access licence water allocation account in accordance with the available water determinations made as specified in Division 2 Part 10 of this Plan.

54 Accounting of assigned allocations and return flows

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

Note—

Water allocations may be assigned to, or from, these accounts by a water allocation assignment made under section 71T of the Act, where these are allowed under rules specified in Part 12 of this Plan.

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

55 Volume taken under access licences

Note—

Section 341 of the Act makes it unlawful to take a volume of water under an access licence that exceeds the volume of water allocation, which is credited to the access licence at the time of water extraction.

- (1) The water allocation taken under an access licence in these water sources shall be the volume of water extracted by the approved water supply works nominated by the access licence, except where subclause (2) applies.
- (2) If water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then the water allocation taken under that access licence shall be assumed to be 100% of the available water determination made in Division 2 Part 10 of this Plan.

56 Limits to the volume that may be taken under access licences

- (1) The maximum volume that may be taken under or assigned from an access licence in these water sources at any time may not exceed the volume in the water allocation account.
- (2) For the period of any three consecutive water years after the first water year in which this Plan has effect, water taken under a domestic and stock access licence, a local water utility access licence, an unregulated river (high flow) access licence, an unregulated river access licence or an aquifer access licence in these water sources

must not exceed a volume equal to the lesser of:

(a) the sum of:

- (i) water allocations accrued to the water allocation account for the access licence from available water determinations in those three water years,
- (ii) the water allocations carried over from the water year prior to those three water years under clause 57,
- (iii) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act, in those three water years, and
- (iv) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act, in those three water years, or

(b) the sum of:

- (i) the share component of the access licence at the beginning of the first of those three water years,
- (ii) the share component of the access licence at the beginning of the second of those three water years,
- (iii) the share component of the access licence at the beginning of the third of those three water years,
- (iv) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act, in those three water years, and
- (v) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act, in those three water years.

(3) For the period of the first three water years in which this Plan has effect, the maximum volume of water that may be taken under a domestic and stock access licence, local water utility access licence, unregulated river access licence, unregulated river (high flow) access licence or an aquifer access licence to which this clause applies must not exceed a volume equal to:

- (a) 50% of the water allocations accrued to the water allocation account for the access licence from available water determinations in the first water year, plus
- (b) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in the second and third water

years, plus

- (c) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in those water years, plus
- (d) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in those water years.

57 Carrying over of water allocations credits and water allocation account limits

The maximum water allocation that can be carried over in the accounts of domestic and stock, local water utility, unregulated river (high flow), unregulated river and aquifer access licences from one water year to the next shall be equal to:

- (a) 100% of the access licence share component for access licences with share components expressed as ML per year, or
- (b) 1 ML multiplied by the number of unit shares for access licences with share components expressed as a number of unit shares.

Division 3 Sharing surface water flows on a daily basis

58 Sharing surface water flows on a daily basis

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

59 Total daily extraction limits

At the commencement of this Plan, total daily extraction limits (hereafter **TDELS**) have not been established in these water sources.

60 Initial assignment of the TDEL to categories of access licence

No TDELS will be initially assigned to any category of access licence in these water sources.

61 Unassigned TDEL

There are no unassigned TDELS in these water sources.

62 Daily extraction limits for individual access licence holders

At the commencement of this Plan, there are no individual daily extraction limits established for licence holders (hereafter **IDELs**).

63 Granting of unassigned TDEL

There are no unassigned TDELS in these water sources.

64 Very low flow access in these water sources

- (1)–(5) (Repealed)
- (6) The Minister may, under section 45 (1) (b) of the Act, add a licence to Schedule 3 following written request by the holder of an access licence, but only if extraction under the licence is for the purposes established in clause 21 (3) (g) (i), and the purpose was on the entitlement that was replaced by the access licence.
- (7) The Minister may under section 45 (1) (b) of the Act remove a licence from Schedule 3 if:
- (a) any access licence dealing results in the water being extracted under that licence from a different location,
 - (b) an alternative water supply is obtained, that satisfies the requirements of clause 21 (3) (g) (i), or
 - (c) the licence is surrendered or cancelled or the purpose ceases to exist.
- (8) Following an assessment of the continuing requirements for access under this clause the Minister may, under section 45 (1) (b) of the Act amend or delete Schedule 3, if such a review determines that access under this clause is no longer required.
- (9) The Minister may add an access licence or a [Water Act 1912](#) entitlement to Schedule 3 if the Minister is satisfied that the water supply system used to take, store and deliver water has not undergone major augmentation since the commencement of this Plan.
- (10) The Minister may remove an access licence or [Water Act 1912](#) entitlement from Schedule 3 if the Minister is satisfied that the water supply system used to take, store and deliver water has undergone major augmentation since the commencement of this Plan.

65 Access rules for the taking of water from the alluvial sediments in these water sources

- (1) Subject to subclause (5), except for the taking of water under an aquifer access licence to which subclause (2) applies, the taking of water under an aquifer access licence which nominates a water supply work which may be used to take water from the alluvial sediments in these water sources that is located at or less than 40 metres from the top of the high bank of a river, will, from year six of this Plan, be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or management zone.
- (2) Subject to subclause (5), the taking of water under an aquifer access licence which arises from a dealing involving the conversion of an unregulated river access licence to an aquifer access licence will be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or

management zone.

- (3) Subject to subclause (5), the taking of water under a local water utility access licence which nominates a new water supply work which may be used to take water from the alluvial sediments in these water sources that is located at or less than 40 metres from the top of the high bank of a river will be subject to the same access rules specified in clause 21 as those for an unregulated river access licence in the same water source or management zone.
- (4) For the purpose of this clause, an access rule specified in clause 21 that requires a visible flow at the location at which water is proposed to be taken shall be taken to mean a visible flow in the river immediately adjacent to the water supply work being used to take water from the alluvial sediments.
- (5) Subclauses (1)–(3) do not apply to the taking of water under an access licence that is used only to account for the taking of water in association with an aquifer interference activity for a state significant mining development approved under Part 3A, or Part 4.1 or for state significant infrastructure approved under Part 5.1 under the *Environmental Planning and Assessment Act 1979*.

66 Infrastructure failure in these water sources

In the event of infrastructure failure in these water sources, the Minister may elect to:

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

Note—

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

Division 4 Management of local impacts

67 Management of local impacts

- (1) This Division is made in accordance with section 21 (a) of the Act.
- (2) The Minister may declare a defined area to be known as a local impact area in order to:
 - (a) protect water levels within a water source,
 - (b) protect water quality within a water source,

- (c) protect high priority groundwater dependent ecosystems in Schedule 5 through the protection of water quality and/or water levels, or
 - (d) protect aquifer integrity.
- (3) The declaration in subclause (2) will contain the rules that are to apply in the local impact area and those rules will apply pursuant to a mandatory condition on each access licence requiring compliance with rules.
- (4) The Minister is to advise in writing each licence holder who becomes subject to local impact rules.

Note—

The Minister may also, if satisfied that it is necessary to do so in the public interest, may make an order under section 323 of the Act, directing that for a specified period, the taking of water from a specified water source is totally prohibited.

68 Water level management

- (1) Where the Minister declares a local impact area under clause 67 (2) (a), 67 (2) (c) or 67 (2) (d) extraction will be restricted to such an extent and for such time as is required to restore groundwater levels to a sustainable level and/or to protect or restore groundwater dependent ecosystems.
- (2) The Minister may nominate specific water levels to define the terms referred to in subclauses (1), to ensure extraction does not cause an ongoing decline in groundwater levels.
- (3) In the case of subclause (1), the local impact rules may also be:
- (a) expressed as restrictions on yearly, quarterly, or weekly extraction in the affected areas, and
 - (b) subject to review based on assessment of data from monitoring bores within the local impact area.
- (4) If water levels recover, extraction restrictions may be eased to such an extent as to allow recovered water levels to be maintained and fluctuate within the normal bounds of climate variability.

Note—

This clause recognises that in some locations, at certain periods of high groundwater demand, critical water level declines may occur, and that additional extraction limitations may be required. The Department of Water and Energy will identify monitoring bores, and determine the method for specifying an affected area.

69 Water quality management

- (1) The beneficial uses of these water sources are specified in Schedule 6.

Note—

There are localised areas within these groundwater sources where the beneficial use is of a lower class.

Note—

It is not recommended that water direct from the groundwater be consumed by humans without prior treatment. Land use activities may have resulted in pollution of the groundwater in some areas.

- (2) Water quality decline will be deemed unacceptable if extraction causes, or is likely to cause, water quality to decline to a lower beneficial use class, as prescribed within the framework described in the NH&MRC/ARMCANZ *Australian Drinking Water Guidelines* (1996), and the ANZECC/ARMCANZ *Guidelines for Fresh and Marine Water Quality* (2000).
- (3) Before making a local impact area declaration made under clause 67 (2) (b) or 67 (2) (c) (in respect to water quality on groundwater dependent ecosystems), the Minister shall have regard to the results of:
 - (a) a site inspection, and
 - (b) water analysis from bores,within the proposed local impact area.
- (4) If water quality decline is resulting from extraction, extraction from all water supply works which may be used to take water from the alluvial sediments in these water sources nominated by an access licence within a local impact area declared under clause 67 (2) (b) will be restricted to such an extent and for such time as required to halt that decline, or restore the beneficial use of the groundwater.
- (5) In the case of subclause (4), the local impact rules may be:
 - (a) expressed as restrictions on yearly, quarterly, or weekly extraction in the affected areas, and
 - (b) subject to review based on assessment of data from monitoring bores within the local impact area.
- (6) An existing water supply work being constructed or used to take water from the alluvial sediments in these water sources within 100 metres of a contamination source identified in Schedule 4, will be able to continue extraction of groundwater at levels equivalent to the access licence share component at the commencement of this Plan nominating that work, subject to any restrictions arising from subclause (4).

70 Infrastructure failure in local impact areas

- (1) The operational rules relating to a local impact area may rely on water levels at specified monitoring bores.

- (2) In the event of a monitoring bore failure the Minister may:
 - (a) continue with the current access rules until the monitoring bore is reinstated,
 - (b) adjust the current access rules based on climatic conditions and monitoring bore information, until the monitoring bore is reinstated, and
 - (c) rely on another monitoring bore in the area to provide information.

Part 12 Access licence dealing rules

71 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 1 July 2004 (as amended) under section 71Z of the Act.
- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71Z of the Act and the rules in this Part.
- (3) To the extent that the water allocation of an access licence which is subject to an adaptive environmental water condition is not required to meet the requirement of the condition it may be the subject of an assignment dealing in accordance with the Dealings Rules in Part 12 of this Plan.
- (4) Notwithstanding subclause (3) an access licence with an adaptive environmental water condition may be the subject of any other dealing permitted by the Dealing Rules in this Plan, provided the benefit to the environment provided for in the adaptive environmental condition is not diminished.

Note—

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

Note—

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

Note—

An unregulated river (subcategory "Aboriginal community development") access licence will not be fully commercial. Allocations under these licences will be able to be traded to non-Aboriginal people however the licence itself can only be traded amongst Aboriginal people, and as such will remain in the Aboriginal community for the life of the licence. These licences will not be able to be converted to any other category of licence. Aboriginal communities, enterprises and individuals are encouraged to seek financial assistance from funding

bodies to purchase fully commercial licences.

72 Rules relating to constraints within these water sources

- (1) This clause applies to any relevant dealings under sections 71Q, 71S and 71W, and with respect to water allocation assignments under section 71T of the Act, within these water sources.
- (2) Dealings are prohibited under this clause if:
 - (a) the dealing would result in the total extraction under access licences through nominated water supply works which may be used to take water from the alluvial sediments in these water sources in the area, plus basic landholder rights extraction, causing any adverse local impact in accordance with Part 11, Division 4 of this Plan,
 - (b) the dealing involves an assignment of access rights or an allocation assignment from an aquifer access licence that nominates a water supply works which may be used to take water from the alluvial sediments in these water sources outside 40 metres from the top of the bank of a river to a water supply works which may be used to take water from the alluvial sediments in these water sources within 40 metres from the top of the bank of a river,
 - (c) the dealing involves an assignment of access rights or an allocation assignment from an access licence in:
 - (i) Thora-North Arm Bellinger River Water Source, if it is from the Lower Thora-North Arm Bellinger River Management Zone to the Upper Thora-North Arm Bellinger River Management Zone,
 - (ii) the Bellinger River Water Source, the Coastal Bellinger Water Source, the Coastal Kalang Water Source or Hydes Creek Water Source Water Source, if it is from the Non Tidal Management Zone to the Tidal Pool Management Zone, where:
 - (1) an assessment of the allowable annual limit that can be extracted within the respective Tidal Pool Management Zone has not been undertaken and that limit has not been specified in the Implementation Program for this Plan,
 - (2) it causes total access licence share components in the Tidal Pool Management Zone to exceed the allowable annual limit that can be extracted within the respective management zone as specified in the Implementation Program for this Plan,
 - (iii) the Kalang River Water Source, if it is from the Tidal Pool Management Zone to the Non Tidal Management Zone,

- (iv) the Hydes Creek Water Source, if it is from the Tidal Pool Management Zone to the Non Tidal Management Zone and it causes total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan, and
 - (v) the Bellinger River Water Source, if it is from the Tidal Pool Management Zone to the Non Tidal Management Zone and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 54 ML,
- (d) the dealing involves an assignment of access rights or an allocation assignment from an unregulated river (high flow) access licence to an access licence of another category,
- (e) the dealing involves an access licence, that currently nominates works in:
- (i) the Lower Thora–North Arm Bellinger River Management Zone of the Thora–North Arm Bellinger River Water Source nominating works in the Upper Thora–North Arm Bellinger River Management Zone,
 - (ii) a Non Tidal Management Zone of the Bellinger River Water Source, the Coastal Bellinger Water Source, the Coastal Kalang Water Source or Hydes Creek Water Source Water Source nominating works in a Tidal Pool Management Zone, if:
 - (1) an assessment of the allowable annual limit that can be extracted within the respective Tidal Pool Management Zone has not been undertaken and that limit has not been specified in the Implementation Program for this Plan,
 - (2) it causes total access licence share components in the Tidal Pool Management Zone to exceed the allowable annual limit that can be extracted within the respective management zone as specified in the Implementation Program for this Plan,
 - (iii) the Tidal Pool Management Zone of the Kalang River Water Source nominating works in the Non Tidal Management Zone,
 - (iv) the Tidal Pool Management Zone of the Hydes Creek Water Source nominating works in the Non Tidal Management Zone and it causes total access licence share components in the Non Tidal Management Zone to exceed total access licence share components in that management zone at the commencement of this Plan, and
 - (v) the Tidal Pool Management Zone of the Bellinger River Water Source nominating works in the Non Tidal Management Zone and it causes the total

access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 54 ML, and

- (f) the access licence dealing involves consent to the nomination of a water supply work being constructed or used to take water from the alluvial sediments in these water sources prohibited under clause 39 of this Plan.

73 Rules for change of water source

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

Note—

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

- (2) Dealings under section 71R and 71W of the Act that change the water source to which an access licence applies are prohibited in these water sources if:
 - (a) the dealing involves a change of water source from one extraction management unit to another extraction management unit,
 - (b) the dealing is into Dalhousie Creek Water Source, Never Never Creek Water Source, Rosewood Creek Water Source or Thora-North Arm Bellinger River Water Source,
 - (c) the dealing is into Boggy Creek Water Source and it causes the total access licence share components to exceed the total access licence share components in that water source at the commencement of this Plan, plus 50 ML,
 - (d) the dealing is into Spicketts Creek Water Source from a water source other than the Non Tidal Management Zone of the Kalang River Water Source,
 - (e) the dealing is into the Non Tidal Management Zone of the Bellinger River Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 54 ML,
 - (f) the dealing is into the Non Tidal Management Zone of the Coastal Bellinger Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 14 ML,
 - (g) the dealing is into the Non Tidal Management Zone of the Coastal Kalang Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that

management zone at the commencement of this Plan plus 88 ML,

- (h) the dealing is into the Non Tidal Management Zone of the Hydes Creek Water Source and it causes total access licence share components in the Non Tidal Management Zone to exceed total access licence share components in that management zone at the commencement of this Plan,
 - (i) the dealing is into the Non Tidal Management Zone of the Kalang River Water Source from another water source other than Spicketts Creek Water Source, and
 - (j) the dealing is into the Tidal Pool Management Zone of the Bellinger River Water Source, the Coastal Bellinger Water Source, the Coastal Kalang Water Source, Hydes Creek Water Source or Kalang River Water Source where:
 - (i) an assessment of the allowable annual limit that can be extracted within the respective Tidal Pool Management Zone has not been undertaken and that limit has not been specified in the Implementation Program for this Plan, or
 - (ii) it causes total share components of access licences in the Tidal Pool Management Zone to exceed the allowable annual limit that can be extracted within the respective management zone as specified in the Implementation Program for this Plan.
- (3) Dealings under section 71R and 71W of the Act that change the water source to which an access licence applies are prohibited in these water sources if the dealing involves an unregulated river (high flow) access licence.
- (4) Dealings under section 71R and 71W of the Act that change the water source to which an access licence applies are prohibited in these water sources if the dealing would result in the total extraction under access licences through nominated water supply works which may be used to take water from the alluvial sediments in these water sources in the area, plus basic landholder rights extraction, causing any adverse local impact in accordance with Part 11, Division 4 of this Plan.
- (5) Unless the application is for a replacement water supply work being constructed or used to take water from the alluvial sediments in these water sources that is part of a bore network for a local water utility or town water supply or a new water supply work which may be used to take water from the alluvial sediments in these water sources required as part of a dealing involving the conversion of an unregulated river access licence to an aquifer access licence under section 71O of the Act and clause 74 of this Plan, consent to a nominated work under section 71W, is not to be granted in these groundwater sources, if it would result in a water supply work being constructed or used to take water from the alluvial sediments in these water sources being authorised to extract water within 40 metres of the top of the high bank of a river.
- (6) The share component on an access licence issued under this clause is to be equal to

the cancelled access licence share component.

- (7) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

74 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 710 of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category are permitted only if the conversion is from:
 - (a) an unregulated river access licence to an aquifer access licence, or
 - (b) an unregulated river access licence to an unregulated river (high flow) access licence in the Never Never and Hydes Creek Water Sources.
- (3) For any conversion of an access licence under subclauses (2) (a) and (2) (b) the access licence being converted shall be cancelled and a new licence issued.
- (4) The share component on an access licence issued under subclause (2) (a) is to be equal to the cancelled access licence share component.
- (5) The volume of share component on an access licence issued under subclause (2) (b) is to be equal to 2.5 times the cancelled access licence share component.
- (6) The total amount of all access licence share component that can be converted to unregulated river (high flow) access licences under subclause (2) (b) shall be limited to:
 - (a) 250.8 unit shares in the Hydes Creek Water Source, and
 - (b) 723.2 unit shares in the Never Never Water Source.

Note—

Approval for conversion of an unregulated river access licence to an unregulated river (high flow) access licence will be subject to assessment of the application in regard to the level of impact of the proposed conversion. This should include consideration of the potential impact on high flow (eg flows greater than the 50th percentile flow) values, and any potential impact on the water source as a whole.

75 Rules for interstate access licence transfer

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

76 Rules for water allocation assignments between water sources

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

- (2) Dealings under section 71T that result in water allocation assignments to or from an access licence in one of these water sources to or from an access licence in another of these water sources are prohibited in these water sources if the dealing would result in the total extraction under access licences through nominated water supply works which may be used to take water from the alluvial sediments in these water sources in the area, plus basic landholder rights extraction, causing any adverse local impact in accordance with Division 4 of Part 11 of this Plan.
- (3) Dealings under section 71T of the Act that result in water allocation assignments to or from an access licence in one of these water sources to or from an access licence in another of these water sources are prohibited if:
- (a) the dealing involves a change of water source from one extraction management unit to another extraction management unit,
 - (b) the dealing is into Dalhousie Creek Water Source, Never Never Creek Water Source, Rosewood Creek Water Source or Thora-North Arm Bellinger River Water Source,
 - (c) the dealing is into Boggy Creek Water Source and it causes the total access licence share components to exceed the total access licence share components in that water source at the commencement of this Plan, plus 50 ML,
 - (d) the dealing is into Spicketts Creek Water Source from a water source other than the Kalang River Water Source,
 - (e) the dealing is into the Non Tidal Management Zone of the Bellinger River Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 54 ML,
 - (f) the dealing is into the Non Tidal Management Zone of the Coastal Bellinger Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 14 ML,
 - (g) the dealing is into the Non Tidal Management Zone of the Coastal Kalang Water Source and it causes the total access licence share components in the Non Tidal Management Zone to exceed the total access licence share components in that management zone at the commencement of this Plan plus 88 ML,
 - (h) the dealing is into the Non Tidal Management Zone of the Hydes Creek Water Source and it causes total access licence share components in the Non Tidal Management Zone to exceed total access licence share components in that management zone at the commencement of this Plan,
 - (i) the dealing is into the Non Tidal Management Zone of the Kalang River Water

- Source from another water source other than Spicketts Creek Water Source,
- (j) the dealing is into the Tidal Pool Management Zone of the Bellinger River Water Source, the Coastal Bellinger Water Source, the Coastal Kalang Water Source, Hydes Creek Water Source or Kalang River Water Source where:
- (i) an assessment of the allowable annual limit that can be extracted within the respective Tidal Pool Management Zone has not been undertaken and that limit has not been specified in the Implementation Program for this Plan, or
 - (ii) it causes total share components of access licences in the Tidal Pool Management Zone to exceed the allowable annual limit that can be extracted within the respective management zone as specified in the Implementation Program for this Plan, and
- (k) the dealing involves an unregulated river (high flow) access licence.

77 Rules for interstate assignment of water allocations

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

Part 13 Mandatory conditions

Note—

Part 15 allows for amendments to be made to this Part.

Division 1 General

78 General

In this Part:

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to the address listed in Appendix 3 of this Plan or to the email address for the Department's Licensing Enquiries Information Centre,

Note—

The email address for the Department's Licensing Enquiries Information Centre is information@water.nsw.gov.au.

- (b) a ***metered water supply work with a data logger*** means a water supply work with a data logger and a meter that complies with Australian Technical Specification ATS 4747, *Meters for non-urban water supply* as may be updated or replaced from time to time, and

Note—

The definition of **metered water supply work with a data logger** does not include all water supply works that are metered or that have a data logger. The water supply work must meet the parameters of this definition for the water supply work to be a metered water supply work with a data logger.

- (c) if the holder of a water supply work approval is the same as the holder of the access licence under which water is proposed to be taken, then it is not necessary to maintain two separate Logbooks and all the required information can be kept in one Logbook.

Division 2 Access licences

Note—

This Division is made in accordance with sections 17 (c), 20 and 66 of the Act.

79 General

- (1) Access licences in these water sources must have mandatory conditions where required to give effect to the following:
- (a) the relevant water allocation account management rules specified in Division 2 of Part 11 of this Plan for the respective category or subcategory of access licence,
 - (b) the taking of water under an aquifer access licence is subject to any local impact rules made under Division 4 of Part 11 of this Plan,
 - (c) water must not be taken under an access licence otherwise than in compliance with the conditions applying to the water supply work approval for the water supply work through which water is to be taken,
 - (d) the holder of an access licence must notify the Minister, in writing, immediately upon becoming aware of a breach of any condition of the licence, and
 - (e) any other condition required to implement the provisions of this Plan.
- (2) All access licences in these water sources, excluding access licences that nominate only metered water supply works with a data logger, must have mandatory conditions where required to give effect to the following:
- (a) the holder of an access licence must keep a Logbook,
 - (b) the holder of an access licence must record the following in the Logbook:
 - (i) each date and period of time during which water was taken under the access licence,
 - (ii) the volume of water taken on that date,
 - (iii) the water supply work approval number of the water supply work used to take the water on that date,
 - (iv) the purpose or purposes for which the water was taken on that date,

- (v) for domestic and stock access licences, local water utility access licences, unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences, the volume of water taken in the first three water years in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 56 (3),
 - (vi) for domestic and stock access licences, local water utility access licences, unregulated river access licences, unregulated river (high flow) access licences and aquifer access licences, the volume of water taken in any three consecutive water years after the first water year in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in those years under clause 56 (2), and
 - (vii) any other information required to be recorded in the Logbook under the rules of this Plan,
- (c) the holder of the access licence must produce the Logbook to the Minister for inspection, when requested,
 - (d) the holder of the access licence must retain the information required to be recorded in the Logbook for 5 years from the date to which that information relates.
- (3) The Minister may require the holder of an access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements from subclause (2).
 - (4) All access licences of the subcategory “Aboriginal cultural” must have a mandatory condition that specifies that water must only be taken under the access licence by Aboriginal persons or Aboriginal communities for personal, domestic or communal purposes, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.
 - (5) An access licence for a development approved under Part 3A for State Significant Infrastructure, Part 4 if the development was for State Significant Development, or Part 5.1 of the *Environmental Planning and Assessment Act 1979* must have mandatory conditions, where required to give effect to:
 - (a) the relevant access rules for the taking of water specified in Division 3 of Part 11 of this Plan, and
 - (b) the rules for the use of water supply works located within restricted distances specified in clauses 39 and 39A.

Division 3 Water supply work approvals

Note—

This Division is made in accordance with sections 17 (c) and 100 of the Act.

80 General

- (1) Water supply work approvals for water supply works in these water sources must have mandatory conditions where required to give effect to the following:
- (a) the water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in clause 21 (3) and Division 3 of Part 11 of this Plan,
 - (b) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements:
 - (i) the metering equipment must accurately measure and record the flow of all water taken through the water supply work,
 - (ii) the metering equipment must comply with Australian Technical Specification *ATS 4747, Meters for non-urban water supply*, as may be updated or replaced from time to time,
 - (iii) the metering equipment must be operated and maintained in a proper and efficient manner at all times,
 - (iv) the metering equipment must be sited and installed at a place in the pipe, channel or conduit between the water source and the first discharge outlet. There must be no flow of water in to or out of the pipe, channel or conduit between the water source and the metering equipment, and
 - (v) any other requirements as to type, standard or other criteria for the metering equipment as specified in the notice,

Note—

The Minister may also direct a landholder or person to install, replace or to properly maintain metering equipment under section 326 of the Act.

- (c) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned, unless otherwise directed by the Minister in writing,
- (d) the holder of the water supply work approval must notify the Minister in writing immediately upon becoming aware of a breach of any condition of the approval,
- (e) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned, and
- (f) any other conditions required to implement the provisions of this Plan.

- (2) Water supply work approvals for water supply works in these water sources, excluding a water supply work that is a metered water supply work with a data logger, must have mandatory conditions where required to give effect to the following:
- (a) the holder of a water supply work approval must keep a Logbook,
 - (b) the holder of a water supply work approval must record the following in the Logbook:
 - (i) each date and period of time during which water was taken using the water supply work,
 - (ii) the volume of water taken on that date,
 - (iii) the access licence number of the access licence under which water was taken on that date, or, if water was taken under some other authority (such as basic landholder rights), the authority under which that water was taken,
 - (iv) the purpose or purposes for which the water was taken on that date,
 - (v) details of any cropping carried out using water taken through the water supply work including the type of crop, area cropped and dates of planting and harvesting,
 - (vi) where metering equipment has been installed for use in connection with the water supply work, the meter reading before water is taken,
 - (vii) where metering equipment has not been installed for use in connection with the water supply work, details of all pumping activities for the water supply work including pump running hours, pump power usage or pump fuel usage, pump start and stop times and pump capacity per unit of time, and
 - (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
 - (c) the holder of the water supply work approval must produce the Logbook to the Minister for inspection, when requested, and
 - (d) the holder of the water supply work approval must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of a water supply work approval for a metered water supply work with a data logger to keep a Logbook in accordance with any requirements under subclause (2).
- (4) All water supply work approvals for water supply works in these water sources must contain mandatory conditions to require that the water supply work must not be used

to take water unless, before water is taken, the holder of the water supply work approval confirms that the relevant cease to take conditions do not apply. Where the holder is required to keep a Logbook, the holder must record that confirmation and the means of confirmation (such as visual inspection or internet search), in the Logbook.

- (5) Water supply work approvals for runoff harvesting dams or in-river dams must have a mandatory condition to give effect to clause 37 of this Plan.

80A Water supply works used to take water from the alluvial sediments

- (1) This clause applies to all water supply works that may be used to take water contained within the alluvial sediments in these water sources.
- (2) Water supply work approvals to which this clause applies must have mandatory conditions where required to give effect to the following:
- (a) the rules for limiting the taking of water within restricted distances as specified in clause 39A,
 - (b) the approval holder must ensure the water supply work is constructed so as to be:
 - (i) screened in the alluvial sediments in the water source specified in the share component of the access licence that nominates the water supply work, and
 - (ii) sealed off from all other sources of water,
 - (c) the construction of a new water supply work must:
 - (i) comply with the distances restrictions specified in or specified by the Minister in accordance with clause 39,
 - (ii) comply with the construction standards for that type of work prescribed in the Minimum Construction Requirements for Water Bores in Australia,
 - (iii) be constructed appropriately so as to prevent contamination between aquifers, and
 - (iv) be constructed to prevent the flow of saline water between aquifers as directed by the Minister in writing,
 - (d) the approval holder must ensure that if the water supply work is abandoned or replaced, it is decommissioned in compliance with the “minimum requirements for decommissioning bores” prescribed in the Minimum Construction Requirements for Water Bores in Australia, unless otherwise directed by the Minister in writing,
 - (e) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned,

- (f) the approval holder must, within two months of completion of the construction of the water supply work, or within two months after the issue of the approval if the work is existing, submit to the Department in a form approved by the Minister, the details of the water supply work,
 - (g) if, during the construction of the water supply work, contaminated water is encountered above the production aquifer, the approval holder must:
 - (i) notify the Minister within 48 hours of becoming aware of the contaminated water,
 - (ii) take all reasonable steps to minimise contamination and environmental harm,
 - (iii) ensure that such water is sealed off by inserting casing to a depth sufficient to exclude the contaminated water from the water supply work and, if specified by the Minister, place an impermeable seal between the casing and the walls of the water supply work from the bottom of the casing to ground level as specified by the Minister, and
 - (iv) if the Minister has specified any other requirements, comply with any requirements specified by the Minister in writing,
 - (h) when directed by the Minister by notice in writing, the approval holder must provide a report in the form specified in the notice detailing the quality of any water obtained using the water supply work,
 - (i) the water supply work approval will lapse if the construction of the water supply work is not completed within three years of the issue of the approval, and
 - (j) any other conditions required to implement the provisions of this Plan.
- (3) A water supply work approval granted in circumstances where clause 39 (4) applies must have a mandatory condition where required to give effect to clause 39 (4) (c).

Part 14 Monitoring and reporting

81 Monitoring and reporting of performance indicators

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

Note—

Review and Audit of this Plan

In accordance with section 43A of the Act, the Water and Energy Commission must undertake a review of this Plan prior to any decision to extend its term or to make a new plan. The review must consider the extent to which this Plan's water sharing provisions have contributed to achieving or not achieving the State priorities for local land services relevant to natural resource management (as referred to in the [Local Land Services Act 2013](#)).

When undertaking this review the Water and Energy Commission is required to call for public submissions. The

Commission will take into consideration any submission received as well as any other relevant State-wide or regional government policies or agreements that apply to the Local Land Services region.

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

Note—

Implementation Program

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

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

The results of the review of the Implementation Program are included in the annual report for the Department.

Part 15 Amendment of this Plan

82 Amendment of this Plan

- (1) Amendments specified throughout this Plan, and in this Part, are amendments authorised by this Plan.
- (2) Amendments authorised by this Plan are taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.

Note—

For example, if Part 1 is amended to add a new management zone, this may require amendment to other parts of this Plan to include rules for that management zone.

- (3) An amendment authorised by this Plan which results in a variation of the bulk access regime, is an amendment authorised by this Plan for the purposes of sections 87 (2) (c) and 87AA of the Act.

83 Amendments due to floodplain harvesting

This Plan may be amended so as to provide for the floodplain harvesting of water, subject to the amendments not affecting the outcomes of the long-term average annual extraction limit specified within this Plan.

Note—

This means that this Plan can be changed to issue and manage floodplain harvesting licences provided that the long-term average annual extraction limit (LTAAEL) does not increase or decrease. Floodplain harvesting in coastal systems is limited compared to inland systems. By not amending the LTAAEL with the granting of these licences, coastal systems are being consistent with inland systems where growth is managed within the existing LTAAEL.

84 Amendments for Coastal Sands Water Source

The Minister may, under section 45 (1) (b) of the Act amend this Plan, where required, to include provisions and rules for the waters in the coastal sands that are within and outside the area of this Plan.

Note—

Coastal sands are defined as the sand plains and sand dunes associated with beach complexes.

85 Amendments for alluvial aquifers downstream of the tidal limit

The Minister may, under section 45 (1) (b) of the Act amend this Plan, where required, to include provisions and rules for the alluvial aquifer that is downstream of the tidal limit and within or outside of the area of this Plan.

86 Amendments for stormwater harvesting

The Minister may, under section 45 (1) (b) of the Act, amend:

- (a) Part 3,
- (b) Part 4,
- (c) Part 8,
- (d) Part 9,
- (e) Part 10,
- (e) Part 11, Division 2 and 3,
- (f) Part 12, and
- (h) Part 13,

to include rules for any new category of access licence established under the Act for the purpose of stormwater harvesting.

87 Other amendments to this Plan

This Plan may also be amended in accordance with the following clauses:

- (a) clause 5 (4) in respect to amending an existing, or establishing a new or additional management zones,
- (b) clauses 17 (2), 17 (3) and 17 (4) in respect to additional or amendment to flow reference points,
- (c) clause 18 (2) in respect to the establishment of new or additional flow class or classes,
- (d) clause 21 (4) in respect to the identification, establishment and maintenance of

planned environmental water,

- (e) clause 39 (5) in respect to the distance restrictions to minimise interference between extraction,
- (f) clause 39 (9) in respect to contamination sources,
- (g) clauses 39 (11), 39 (14), 39 (15) and 39 (16) in respect to high priority groundwater dependent ecosystems,
- (h) Part 11 with respect to:
 - (i) amending rules in relation to record keeping including amendments in relation to requirements for Logbooks, or
 - (ii) specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works in clauses 80 and 80A, and
- (i) this Plan may be amended to allow for the management of aquifer interference activities.

Dictionary

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

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

cease to take condition means any term or condition on a water supply work approval, an access licence or [Water Act 1912](#) entitlement that prohibits the taking of water in a particular circumstance.

drawdown means a lowering of the level to which water will rise in cased bores.

Note—

Natural drawdown may occur due to seasonal climatic changes. Groundwater pumping may also result in seasonal and long-term drawdown.

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

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

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

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

- (a) Very Low Flows may be a class on their own,
- (b) low flows may be categorised as A Class flows,

(c) moderate flows may be categorised as B Class flows, and

(d) high flows may be categorised as C Class flows.

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

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

in-river dam pool means the area of water immediately upstream of an in-river dam where the river has pooled as a result of an in-river dam.

karst environment means an area of land, including subterranean land, that has developed in soluble rock through the processes of solution, abrasion or collapse, together with its associated bedrock, soil, water, gases and biodiversity.

Logbook in relation to an access licence or water supply work approval, means a written record, kept in hard copy or electronic form, which accurately records all information required to be kept in relation to the access licence or water supply work approval under the rules of this Plan.

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

Minimum Construction Requirements for Water Bores in Australia means the document published by the National Uniform Drillers Licensing Committee entitled *Minimum Construction Requirements for Water Bores in Australia, 2012*, ISBN 978-0-646-56917-8, as amended or replaced from time to time.

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

slotted intervals mean that part of a water bore where slots in the casing occur which are designed to allow water to enter the bore.

stream order is defined by the Strahler stream ordering method.

tidal pool is the area of water between the upper mangrove limit and lower tidal limits, with the mangrove limit being that as defined in the *DIPNR Survey of tidal limits and mangrove limits in NSW estuaries 1996 to 2003* (NSW Dept of Commerce, Manly Hydraulics Laboratory).

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

visible flow is the continuous downstream movement of water that is perceptible to the eye.

Water Act 1912 entitlement has the same meaning as an entitlement in clause 2 of Schedule 10 to the Act.

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

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

Note—

The Strahler system is explained as follows:

- Starting at the top of a catchment, any watercourse that has no other watercourses flowing into it is classed as a 1st order watercourse,
- Where two 1st order watercourses join, the watercourse becomes a 2nd order watercourse,
- If a 2nd order watercourse is joined by a 1st order watercourse—it remains a 2nd order watercourse,
- When two or more 2nd order watercourses join they form a 3rd order watercourse,
- A 3rd order watercourse does not become a 4th order watercourse until it is joined by another 3rd order watercourse and so on.

Schedule 2 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL—contributes to target in full

HIGH—while not fully contributing to target is considered a good level of contribution

PARTIAL—goes some way to contributing to the target

LOW—only small degree of contribution to the target

Relevant Target	Level of contribution	Comments
Target 1c Long-term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources.	FULL	An overall long-term average annual extraction limit has been set for each extraction management unit. The unlicensed extraction downstream of the current limit for licensing under the Water Act 1912 will be incorporated into that long-term average annual extraction limit once volumetric conversion occurs.

<p>Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon.</p>	<p>FULL</p>	<p>Rules for Available Water Determination (AWD) adjustment are set out in Part 10 of this Plan and ensure that the long-term average annual extraction limit is not exceeded.</p> <p>This Plan is a Minister’s plan and therefore no management committee involvement required.</p>
<p>Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes.</p>	<p>HIGH</p>	<p>Cease to pump rules protect and restore aquatic habitats. These rules were based on risk to instream values. These values were based on: naturalness; diversity; rarity including threatened species, populations and communities; and special features.</p> <p>Trading rules were designed to reduce stress in water sources with high instream values.</p>
<p>Target 4a Wherever the frequency of “end of system” daily flows would be less than 60% of the pre-development level without environmental water rules or extraction limits, the flows increased to 60% of pre-development levels or increased by at least 10% of the pre-development frequency.</p>	<p>PARTIAL</p>	<p>Access rules and trading rules will contribute to restoration of flow in proportion to the risk to instream values. High risk water sources will have a higher proportion and low risk a lower proportion.</p>
<p>Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to pre-development levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the pre-development 95th percentile.</p>	<p>HIGH</p>	<p>Cease to pump level at end of system established for all water sources to protect daily very low flows, excluding Dalhousie Creek Water Source and Spicketts Creek Water Source.</p>
<p>Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components.</p>	<p>FULL</p>	<p>The Plan specifies access rights in terms of share and extraction components.</p>
<p>Target 6b For surface water sources, a pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP.</p>	<p>FULL</p>	<p>Long-term average annual extraction limit based on existing entitlement plus exemptions. No pathway required</p>

Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy.	HIGH	The Plan provides for the granting of access licences for Aboriginal commercial purposes available in low hydrological stressed, and medium to low instream value, water sources. The Plan also provides market opportunities for Aboriginal Water Trust.
Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers.	PARTIAL	Flow classes established but no daily extraction limits set.
Target 10 Degree of connectivity between aquifers and rivers assessed, and zones of high connectivity mapped to enable base flows to the river to be maintained or improved.	HIGH	Interaction between rivers and groundwater considered in developing the Plan. Rules for works in close proximity to river in adjacent Groundwater Plans consistent with the Plan.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use.	FULL	The Plan recognises domestic and stock rights and provides access rules to protect the impact. Cease to pump access rules will protect basic landholder rights users from the impact of extraction by access licences.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	Liaison with regional Aboriginal networks and work undertaken with Aboriginal staff to identify appropriate communication mechanisms and approaches for local Aboriginal Land Councils to provide input to the planning process. Given limited information on specific cultural values Plan adopts an approach to protect cultural values through general environmental protection provided by rules. Aboriginal dependence on water recognised through Basic Landholder Rights and specific access licences for cultural and commercial purposes.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them.	LOW	Where possible, water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people were identified and the risks from water extraction assessed in the preparation of the Plan. Further comment from Aboriginal communities is being sought during the exhibition of the draft plan. Access and dealing rules established to protect and enhance.
Target 16a All share components of access licences tradeable.	HIGH	Part 12 of the Plan provides for trading of access licence share components.

<p>Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water.</p>	<p>FULL</p>	<p>Part 12 of the Plan establishes the protocols for trading between water sources. An exchange rate of 1:1 for trading between water sources within each extraction management unit has been adopted, and a conversion factor of 2.5:1 for high flow access in the Hydes Creek and Never Never Water Sources.</p>
<p>Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment.</p>	<p>FULL</p>	<p>The Plan has identified that there is no unassigned access rights. The Plan identified which access licence categories can be granted and the rules for variation to the LTAEL as a result of granting those access licences.</p>
<p>Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit.</p>	<p>HIGH</p>	<p>The Plan establishes management zones in Part 1 of the Plan and establishes flow rules for specific management zones in clause 18 of the Plan, and the trading rules within and between zones in Part 12 of the Plan.</p>
<p>Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries.</p>	<p>PARTIAL</p>	<p>The Plan contain a water quality objective for the contribution to the maintenance of water quality. There are no recommendations from any Healthy Rivers Commission Inquiries over the area of the Plan.</p>

Schedule 3 Licences under the [Water Act 1912](#) or [Water Management Act 2000](#) with access to very low flows

Schedule 3 currently lists [Water Act 1912](#) entitlements from which [Water Management Act 2000](#) access licences will be derived upon commencement of this Plan.

Water Act Licences (Non Local Water Utilities)

30SL040955

30SL065242

30SL065813

30SL066237

30SL039469

30BL184010

Water Act Licences (Local Water Utilities)

30BL130392

30BL130393

30BL130394

30BL142251

Schedule 4 Contamination sources in the Bellinger River Area Unregulated and Alluvial Water Sources

Contamination sources in the Bellinger River Area Unregulated and Alluvial Water Sources include:

- (a) on site sewage disposal systems or septic tanks,
- (b) any significantly contaminated land within the meaning of the [Contaminated Land Management Act 1997](#),
- (c) any sites with an historical use listed in Table 1 of *Managing Land Contamination. Planning Guidelines. SEPP 55—Remediation of Land*, and
- (d) any relevant sites listed in an agency database relating to contamination sources.

Note—

The contamination sources listed in this Schedule may change during the period of this Plan. The Offices of the Department of Water and Energy, shown in Appendix 2, should be contacted for a current list.

Schedule 5 High priority groundwater dependent ecosystems

At the commencement of this Plan, no high priority groundwater dependent ecosystems or high priority karst environment groundwater dependent ecosystems have been identified in this Schedule.

Note—

High priority groundwater dependent ecosystems are currently under investigation and some of these may be identified during the term of this Plan. The full list of potential GDEs will be identified on the DWE GDE Register and as a precautionary approach, will be considered by staff in the assessment of any works approval within the plan area. If verified as high priority groundwater dependent ecosystems, the Schedule will be amended to include further GDEs.

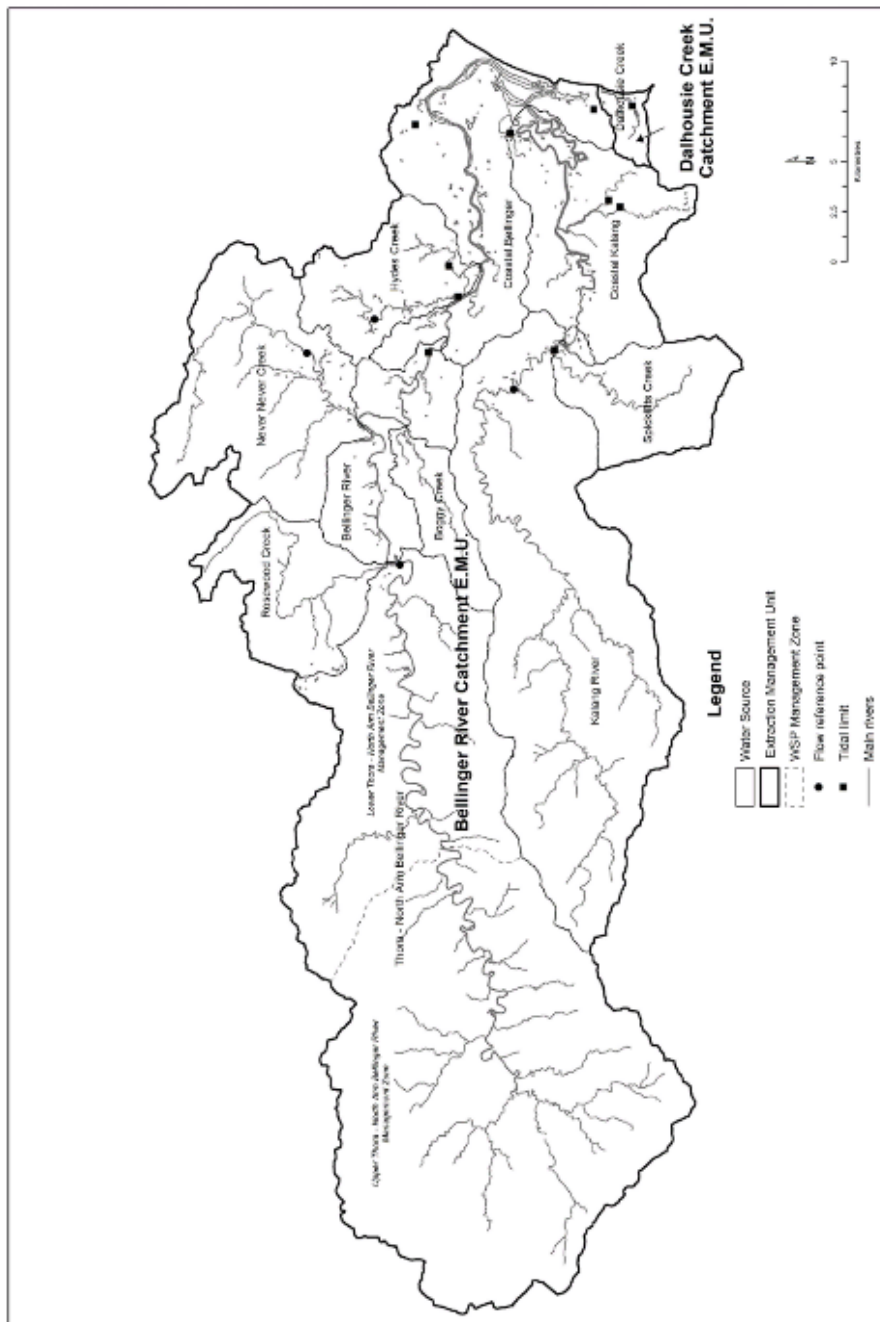
Schedule 6 Beneficial use for the Bellinger River Area Unregulated and Alluvial Water Sources

Water Source	Beneficial Uses
Bellinger River	Irrigation and ecosystem protection
Boggy Creek	Irrigation and ecosystem protection
Coastal Bellinger	Irrigation and ecosystem protection
Coastal Kalang	Irrigation and ecosystem protection
Dalhousie Creek	Irrigation and ecosystem protection
Hydes Creek	Irrigation and ecosystem protection

Kalang River	Irrigation and ecosystem protection
Never Never	Irrigation and ecosystem protection
Rosewood Creek	Irrigation and ecosystem protection
Spicketts Creek	Irrigation and ecosystem protection
Thora-North Arm Bellinger River	Irrigation and ecosystem protection

Appendix 1 Bellinger River Area Unregulated and Alluvial Water Sources and the Bellinger River Catchment and the Dalhousie Creek

Catchment Extraction Management Units



Appendix 2 Inspection of the Plan Map

Copies of the Plan Map may be inspected at the following offices:

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
10 Valentine Ave
PARRAMATTA NSW 2150

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
Level 3, 49 Victoria St
Grafton, NSW 2460

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
The Harrington Building
Level 1, 41 Belgrave Street
KEMPSEY NSW 2440

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
AMP Centre
24 Gordon Street

Appendix 3 Office

Any notifications that may be required to be made to the Minister, as specified in this Plan can be addressed to the following office:

NSW Office of Water
Department of Trade and Investment, Regional Infrastructure and Services
Locked Bag 10
Grafton, NSW 2460