

Water Sharing Plan for the Coopers Creek Water Source 2003

[2003-140]



New South Wales

Status Information

Currency of version

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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 4 (6) of the [Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010 \(702\)](#) (amended by [Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources Amendment Order 2016 \(2016-79\)](#)) with effect from 19.2.2016.
- **Note**
In incorporating the amendments made by the *Water Management (Minister's Plans) Order No 2 of 2004*, published in Gazette No 110 of 1.7.2004, p 5072, changes have been made to the numbering of some of the provisions to maintain appropriate numerical or alphabetical order.

Authorisation

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

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Water Sharing Plan for the Coopers Creek Water Source 2003



New South Wales

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Water Sharing Plan for the Coopers Creek Water Source 2003



New South Wales

Part 1 Introduction

1 Name of Plan

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

2 Nature and status of this Plan

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

3 Date of commencement

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

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Northern Rivers Water Management Area known as the Coopers Creek Water Source (hereafter **this water source**) as shown on the map in Schedule 2.

Note—

The Northern Rivers Water Management Area is as shown on the map in Appendix 1.

Note—

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

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

- (a) Upper Coopers Creek Management Zone, being all creeks and rivers flowing into

and including Coopers Creek upstream of the junction of Bennys Creek and Coopers Creek, excluding Bennys Creek, and

- (b) Lower Coopers Creek Management Zone, being all creeks and rivers flowing into and including Coopers Creek from the junction of Bennys Creek and Coopers Creek to the downstream end of this water source, including Bennys Creek.

Note—

This water source has been divided into two management zones in order to separate the areas of high instream value (the Upper Coopers Creek Management Zone) from the area containing the greatest concentration of economic production assets (the Lower Coopers Creek Management Zone), which in turn allows more flexible water sharing rules to be established.

5 Waters to which this Plan applies

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

6 Interpretation

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

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

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

Note—

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

8 (Repealed)

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is for the environment of the Coopers Creek Water Source to receive the necessary water to sustain healthy functioning ecosystems and provide flows to downstream sub-catchments, and that an informed, water efficient community is provided with water to meet its needs.

11 Objectives

The objectives of this Plan are to:

- (a) provide opportunities for access to water in this water source for domestic and stock purposes while encouraging and supporting efficient, innovative water use, alternative water sources and drought management strategies,
- (b) ensure Aboriginal cultural needs are considered in flow management decisions for this water source, to enable maintenance and protection of values and places of importance under traditional laws, customs and practices,
- (c) protect the variability of natural flow conditions thereby maintaining and improving the overall health of this water source and related ecosystems, including threatened species,
- (d) preserve and maintain the functions of natural low flows in Coopers Creek and its tributaries, particularly during dry periods,
- (e) protect very low flows for fundamental ecosystem health and pools for drought refuge,
- (f) provide flows that facilitate passage of the Eastern Freshwater Cod,
- (g) recognise and seek to protect existing industry via trading rules and access rules that provide opportunities for continued access,
- (h) provide opportunities for access to water for irrigation and other commercial purposes in this water source,
- (i) enhance the health of the Wilsons River and the Richmond estuary by ensuring adequate downstream flow contributions from this water source, and
- (j) protect and improve water quality in this water source through the management of

flows.

Note—

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

12 Strategies

The strategies of this Plan are to:

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

13 Performance indicators

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

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

Note—

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

Part 3 Basis for water sharing

14 Basis for water sharing

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

15 Climatic variability

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

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Richmond River Extraction Management Unit, and is shown on the map in Schedule 6.

17 Flow classes

- (1) This Plan establishes the following flow classes as the basis for sharing of daily flows in the Upper Coopers Creek Management Zone:
 - (a) the Very Low Flow Class is when flows are less than 12.5 megalitres per day (hereafter **ML/day**),
 - (b) A Class is when flows are at or greater than 12.5 ML/day and at or less than 31 ML/day,
 - (c) B Class is when flows are greater than 31 ML/day and at or less than 96 ML/day,
 - (d) C Class is when flows are greater than 96 ML/day and at or less than 264 ML/day, and
 - (e) D Class is when flows are greater than 264 ML/day.

Note—

The flow classes have been determined based on flow information and hydrological modelling that

inherently includes seasonal effects as well as evaporation and seepage losses.

- (2) This Plan establishes the following flow classes as the basis for sharing of daily flows in the Lower Coopers Creek Management Zone:
 - (a) the Very Low Flow Class is when flows are less than 12.5 megalitres per day (hereafter **ML/day**),
 - (b) A Class is when flows are at or greater than 12.5 ML/day and at or less than 31 ML/day,
 - (c) B Class is when flows are greater than 31 ML/day and at or less than 96 ML/day,
 - (d) C Class is when flows are greater than 96 ML/day and at or less than 264 ML/day, and
 - (e) D Class is when flows are greater than 264 ML/day.
- (3) Notwithstanding subclauses (1) and (2), A Class, B Class and C Class will only be applied if, in the opinion of the Minister, they are required to better manage the sharing of water between water users and the environment in one or both management zones and the Minister has made a determination under clause 19.
- (4) Subclauses (1) and (2) may be amended if the Minister is of the opinion that the Very Low Flow Class is having a significant economic impact on water users subject to the Very Low Flow Class not being reduced to a flow that is less than 8.5 ML/day.
- (5) Subclauses (1) and (2) may be amended if following a review of any new flow information that becomes available, the Minister is of the opinion that the Very Low Flow Class does not provide adequate Planned Environmental Water.
- (6) Before amending subclauses (1) and (2) the Minister should consult with representatives of the Coopers Creek Water Users Group.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to Coopers Creek at Ewing Bridge, as shown on the map in Schedule 2.

19 Determination of flow class

In accordance with clause 17 (2), the Minister may from time to time, make a determination that A Class, B Class and C Class will be applied in one or both management zones, if, in the opinion of the Minister, they are required to better manage the sharing of water between water users and the environment.

Part 4 Environmental water provisions

20 Environmental water provisions

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

21 Planned Environmental Water

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

- (a) when flows are less than 12.5 ML/day, then planned environmental water is the flow occurring in this water source minus 0.05 ML/day and minus the Very Low Flow Class access permitted under clause 63 of this Plan,

Note—

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

- (b) if A Class has been determined by the Minister in both management zones, then planned environmental water is the flow occurring in this water source minus 18.12 ML/day,

Note—

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

- (c) if B Class has been determined by the Minister in both management zones, then planned environmental water is the flow occurring in this water source minus 58.12 ML/day,

Note—

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

- (d) if C Class has been determined by the Minister in both management zones, then planned environmental water is the flow occurring in this water source minus 60.12 ML/day,

Note—

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

- (e) if A Class, B Class or C Class has not been determined by the Minister in both management zones, then planned environmental water is the flow occurring in this water source minus any water taken pursuant to basic landholder rights and access licences, and

- (f) the flow occurring in this water source in the 48 hour period after flows have risen

from the Very Low Flow Class to more than 31 ML/day within a 24 hour period, minus basic landholder rights extractions and minus extractions by licence holders specified in Schedule 4.

(2) Planned environmental water is maintained as follows:

(a) in the Very Low Flow Class:

- (i) the holders of access licences, excluding access licences listed in Schedule 4, are not permitted to take water,
- (ii) access licence holders listed on Schedule 4 may take water in the Very Low Flow Class in accordance with clause 63, and
- (iii) persons exercising native title and domestic and stock basic landholder rights may take water up to a combined total of 0.05 ML/day,

Note—

The Minister may, by order made under section 324 of the Act, impose temporary water restrictions to direct that, for a specified period, the taking of water from this water source by persons exercising native title and domestic and stock basic landholder rights is totally prohibited or is restricted as specified in the order, when it is necessary to do so in the public interest (such as to cope with a water shortage or threat to public health or safety).

Note—

The Minister may, by order made under section 331 of the Act, direct a landholder exercising domestic and stock basic landholder rights to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.

(b) if A Class, B Class or C Class has been determined by the Minister, then:

- (i) the holders of access licences other than unregulated river (high flow) access licences, may take water subject to the restriction specified in subclause (f) and the total daily extraction limits specified in clause 46,
- (ii) persons exercising native title and domestic and stock basic landholder rights may take water,
- (iii) if the water taken by persons exercising native title and domestic and stock basic landholder rights is assessed to be exceeding 0.05 ML/day in this flow class, the access to water for access licences will be reduced in accordance with clause 51, to maintain the planned environmental water in this flow class, and
- (iv) the holders of unregulated river (high flow) access licences are not permitted to take water,

(c) the holders of unregulated river (high flow) access licences may only take water

when flows are within D Class,

- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work,
- (e) limits are imposed on the availability of water, in accordance with clauses 36 and 38, to protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction,
- (f) if flows have risen from the Very Low Flow Class to more than 31 ML/day within a 24 hour period, water may not be taken under an access licence, excluding those access licences listed in Schedule 4, in the 48 hour period after flows first exceeded 31 ML/day.

Note—

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

Note—

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

- (3) The Minister may amend clauses 21 (1) and (2) to reflect changes made to the Very Low Flow Class and A Class thresholds under clause 17.
- (4) The Minister may amend clause 21 subject to the limitations in subclause (5), to include rules which prohibit the taking of water under an access licence within a specified period of time after flows have fallen below a specified flow threshold, if future research concludes that such rules would be beneficial for Cod movement.
- (5) Amendments made under subclause (4) shall be subject to:
 - (a) the specified period of time being between 48 and 72 hours, and
 - (b) the specified flow threshold being between 60 ML/day and 120 ML/day.
- (6) Prior to an amendment made under subclause (4) consideration should be given to:
 - (a) the latest hydrological information,
 - (b) the affect of in-stream barriers on Cod movement,
 - (c) levels of water extraction and the impacts extraction has on flow heights,
 - (d) geomorphic characteristics of the water source so that flow rules compliment Cod habitat, and

- (e) socio-economic impacts associated with the amendment.

22, 23 (Repealed)

24 Adaptive environmental water

- (1) Water may be committed in this water source for environmental purposes by an adaptive environmental water condition imposed on an access licence, pursuant to sections 8, 8B, 8C, 8D and 8E of the Act.
- (2) The holder of an access licence may request that the Minister impose an adaptive environmental water condition in respect of the whole or a part of the share component of the access licence.
- (3) The condition imposed under subclause (2) will continue until the holder requests its removal in writing, and the condition is revoked by the Minister, pursuant to section 8B (2) of the Act.
- (4) An access licence may be granted in this water source, pursuant to section 8C of the Act, by the Minister to the Minister, Local Land Services or another public body, without the need for an application to be made for the licence in accordance with Part 2 of Chapter 3 of the Act, so long as:
 - (a) works or other actions result in water savings in the system being made in this water source, and
 - (b) the share component of the access licence is equal to the value of water savings made in the system, and
 - (c) an adaptive environmental water condition is imposed on the access licence and the condition is not removed,

where **system** means that part of this water source that is not identified by this Plan for commitments to basic landholder rights and for sharing and extraction under any other rights.

- (5) The Minister may keep an access licence surrendered by the holder of the licence or transfer it to Local Land Services or another public body, and may change the licence to a different category or subcategory, if:
 - (a) the licence has been surrendered as a result of water savings made by any means (for example, works or other improvements or recycling), and
 - (b) the share component of the licence is equal to the value of the savings made, and
 - (c) an adaptive environmental water condition is imposed on the access licence and the condition is not removed.
- (6) An adaptive environmental water condition is a mandatory condition and the terms of

an adaptive environmental water condition specified in subclause (1):

(a) are to be imposed by the Minister or Minister's delegate, and

(b) are to be specified on the access licence, and

(c) shall further the objectives of this Plan.

- (7) The allocation of water for access licences with an adaptive environmental water condition will be in accordance with the available water determination made for the relevant category of access licence under this Plan.
- (8) If the adaptive environmental water condition on an access licence requires the water to be left in this water source for environmental purposes, then the water allocation account is to be debited when the water is available in accordance with the adaptive environmental water condition on the access licence.
- (9) If the adaptive environmental water condition requires the environmental water to be taken from this water source, then the water allocation account is to be debited when it is taken.
- (10) For the purposes of auditing compliance with the long-term average extraction limit under this Plan, the delivery of water pursuant to an access licence with an adaptive environmental water condition:
- (a) in the case of a licence arising under subclause (4), shall not be accounted for as extraction where it occurs, and
- (b) in the case of a licence arising under subclause (2) or subclause (5), shall be accounted for as extraction where it occurs.
- (11) 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 adaptive environmental water condition, it may be the subject of an assignment dealing in accordance with the Dealings Rules in Part 11 of this Plan.
- (12) Notwithstanding subclause (11), 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 water condition is not diminished.
- (13) At the commencement of this clause, there were no access licences with an adaptive environmental water condition in this water source.

Part 5 Basic landholder rights

25 Basic landholder rights

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

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.05 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note—

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

27 Native title rights

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

Note—

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

28 Harvestable rights

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

Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan,and

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

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

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

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

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

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

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

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

Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note—

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

31 Estimate of water requirements

(1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 5,887 megalitres per year (hereafter **ML/yr**).

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

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

- (a) the granting, surrender, cancellation or non-renewal of access licences,
- (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act, or
- (c) the granting of an application to an existing access licence holder under the provisions of clause 32 (2) (d), up to a maximum total additional share components in this water source of 3,000 unit shares.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This clause is made in accordance with sections 20 (2) (b) having regard to the limits to water availability in this water source and the need to protect dependent ecosystems.
- (2) In addition to those applications for specific purpose access licences permitted under clause 19 of the *Water Management (General) Regulation 2004* (hereafter **the Regulation**) applications may also be made in this water source for:
 - (a) an access licence that may be granted in accordance with a dealing,
 - (b) a domestic and stock access licence,
 - (c) an unregulated river [Aboriginal community development] access licence where the share component does not exceed 10 ML/year per applications,

Note—

An unregulated river [Aboriginal community development] access licence will not be fully tradeable. 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.

- (d) an unregulated river access licence share component for existing access licence holders, provided that individual daily extraction limits (hereafter **IDEL**) are surrendered as follows:
 - (i) the access licence share component may increase by 100% if all A Class IDELs are surrendered,
 - (ii) the access licence share component may increase by 200% if all A and B Class IDELs are surrendered,
 - (iii) IDEL in C Class will not change,
 - (iv) to be eligible for additional share component under subclause (2) (d), the IDEL surrendered must be the full IDEL initially assigned to the access licence, as

amended by clause 51,

- (v) the share component that is increased in accordance with subclauses (2) (d) (i) or (ii) cannot exceed the initial share component of the access licence to which the IDEL was originally assigned,
 - (vi) the total daily extraction limit in clauses 46 and 47 will be reduced by the amount of IDEL surrendered in A and B Class, and
 - (vii) the granting of these additional share components may continue as long as the additional share components for this water source resulting from subclause (2) (d) do not exceed 3,000 unit shares,
- (e) an unregulated river (research) access licence where the share component does not exceed 10 ML/year per application.

Note—

At 1 July 2008, clause 19 of the Regulation provides that applications may be made for the following specific purpose access licences:

- (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.

Section 61 (b) of the Act allows for a person to apply for an access licence with a zero share component.

Section 61 (c) of the Act allows for a person to apply for an access licence where the right to apply for that access licence has been acquired under section 65 of the Act.

Sections 66 (3) of the Act allows the Minister to vary a local water utility’s share component at 5 year intervals, to reflect any variation in population, together with any variation in associated commercial activities that has occurred during the period.

Section 66 (4) of Act allows the Minister to vary a local water utility’s share component, on application of the local water utility to reflect any rapid growth of population within the utility’s area requiring an immediate increase in the availability of water for supply by that utility.

- (3) An access licence of the subcategory (Aboriginal cultural) can only be granted if the application does not exceed 10 ML/yr.
- (4) An application for a specific purpose access licence will only be granted if the share or

extraction component of the access licence is the minimum required to meet the circumstances in which the access licence is proposed to be used.

- (5) Any IDELs for licences granted in accordance with this clause will not exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 51.
- (6) Any new access licence granted in this water source in accordance with this clause, must have a share component within the respective total daily extraction limit initially assigned.

33 Aboriginal assessment of new access licences

- (1) The Minister should seek the views of the Bundjalung Aboriginal Elders Council and the Ngulingah Aboriginal Land Council in relation to all dealings under sections 71Q, 71S, 71T and 71W of the Act, and new access licence applications.
- (2) The Minister will consider any advice provided under subclause (1) before making a determination on an access licence application or dealing referred to in subclause (1).
- (3) In the event of an application for an Aboriginal commercial access licence, the Minister will seek the views of the Aboriginal Reference Group as to the benefit derived from the proposed application. Where an Aboriginal Reference Group has yet to be established, the advice of the Bundjalung Aboriginal Elders Council and the Ngulingah Aboriginal Land Council will be sought.

Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

34 Limits to the availability of water

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

35 Extraction management unit

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

36 Long-term average extraction limit

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

- (a) the share components of access licences in this water source at the commencement of this Plan, plus
- (b) an estimate of annual water requirements pursuant to basic landholder rights

(excluding those exercised via a water bore) in this water source, plus

- (c) the share components of all access licences in the following water sources at the commencement of the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010*:
- (i) Alstonville Area Water Source,
 - (ii) Bangalow Area Water Source,
 - (iii) Broadwater Area Water Source,
 - (iv) Coraki Area Water Source,
 - (v) Double Duke Area Water Source,
 - (vi) Doubtful Creek Water Source,
 - (vii) Eden Creek Water Source,
 - (viii) Gradys Creek Water Source,
 - (ix) Kyogle Area Water Source,
 - (x) Lennox Area Water Source,
 - (xi) Leycester Creek Water Source,
 - (xii) Myall Creek Water Source,
 - (xiii) Myrtle Creek Water Source,
 - (xiv) Upper Richmond River Water Source,
 - (xv) Sandy Creek Water Source,
 - (xvi) Shannon Brook Water Source,
 - (xvii) Terania Creek Water Source,
 - (xviii) Toonumbar Area Water Source,
 - (xix) Tuckean Area Water Source, and
 - (xx) Wyrallah Area Water Source, and
 - (xxi) Richmond Regulated Alluvial Water Source, plus
- (d) the estimate of annual water requirements pursuant to basic landholder rights in the following water sources in the *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010*:

- (i) Alstonville Area Water Source,
 - (ii) Bangalow Area Water Source,
 - (iii) Broadwater Area Water Source,
 - (iv) Coraki Area Water Source,
 - (v) Double Duke Area Water Source,
 - (vi) Doubtful Creek Water Source,
 - (vii) Eden Creek Water Source,
 - (viii) Gradys Creek Water Source,
 - (ix) Kyogle Area Water Source,
 - (x) Lennox Area Water Source,
 - (xi) Leycester Creek Water Source,
 - (xii) Myall Creek Water Source,
 - (xiii) Myrtle Creek Water Source,
 - (xiv) Upper Richmond River Water Source,
 - (xv) Sandy Creek Water Source,
 - (xvi) Shannon Brook Water Source,
 - (xvii) Terania Creek Water Source,
 - (xviii) Toonumbar Area Water Source,
 - (xix) Tuckean Area Water Source,
 - (xx) Wyrallah Area Water Source, and
 - (xxi) Richmond Regulated Alluvial Water Source, plus
- (e) the share components of access licences granted under the Regulation, clause 32 of this Plan, clause 50 of the [Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010](#) and section 61 (1) (c) of the Act, plus
- (f) any additional local water utility access licence share component issued under section 66 of the Act.

37 Variation of the long-term average extraction limit

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

Division 2 Available water determinations

38 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 36, based on comparison of the extraction limit against the average extraction within this Unit over the preceding 3 water accounting years,

Note—

A water accounting year is defined in clause 43 (3).

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

determinations should be made annually,

- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 36 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences and unregulated river (high flow) access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 36, then the available water determination for unregulated river access licenses and unregulated river (high flow) access licenses in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit, and
- (i) notwithstanding subclause (h), and excepting the initial available water determination made under subclause (d), annual available water determinations shall not exceed 100% for all licences with a share component specified in ML per year and 1 ML per unit share for all access licence with a share component specified as a number of unit shares.

Part 10 Rules for managing access licences

Division 1 General

39 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

40 Water allocation account management

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

41 Water allocation accounts

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

Note—

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

Note—

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

42 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 38.

43 Annual accounting for water extraction

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

44 Three year accounting for water extraction

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

- (a) 3 times the share component of the access licence,
- (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71T of the Act in those years,
- (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
- (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71T of the Act in those years.

Division 3 Sharing flows on a daily basis

45 Sharing flows on a daily basis

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

46 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:
 - (a) in the Upper Coopers Creek Management Zone:
 - (i) 1.53 ML/day for A Class,
 - (ii) 4.92 ML/day for B Class, and
 - (iii) 5.09 ML/day for C Class.
 - (b) in the Lower Coopers Creek Management Zone:
 - (i) 16.54 ML/day for A Class,
 - (ii) 53.15 ML/day for B Class, and
 - (iii) 54.98 ML/day for C Class.

Note—

The combined TDEL in each flow class represent 45% of the top of A Class flows, 45% of the top of B Class flows and for C Class flows 30% of the 30th percentile flows in December.

Note—

The TDELs for the Upper and Lower Coopers Creek Management Zones have been established based on the proportion of total access licence share component within each management zone at the commencement of this Plan.

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

Note—

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

47 Initial assignment of the TDEL to categories of access licence

- (1) The TDEL for each flow class will initially be assigned to local water utility access licences according to the following:
 - (a) in the Upper Coopers Creek Management Zone:
 - (i) 0 ML/day of A Class,
 - (ii) 0 ML/day of B Class, and
 - (iii) 0 ML/day of C Class,
 - (b) in the Lower Coopers Creek Management Zone:
 - (i) 0 ML/day of A Class,
 - (ii) 0 ML/day of B Class, and
 - (iii) 0 ML/day of C Class.
- (2) The TDEL for each flow class will initially be assigned to domestic and stock access licences according to the following:
 - (a) in the Upper Coopers Creek Management Zone:
 - (i) 0.01 ML/day of A Class,
 - (ii) 0.01 ML/day of B Class, and
 - (iii) 0.01 ML/day of C Class,
 - (b) in the Lower Coopers Creek Management Zone:
 - (i) 0.06 ML/day of A Class,
 - (ii) 0.06 ML/day of B Class, and
 - (iii) 0.06 ML/day of C Class.
- (3) The TDEL for each flow class will initially be assigned to unregulated river access licences according to the following:
 - (a) in the Upper Coopers Creek Management Zone:
 - (i) 1.52 ML/day of A Class,

- (ii) 4.91 ML/day of B Class, and
 - (iii) 5.08 ML/day of C Class,
- (b) in the Lower Coopers Creek Management Zone:
- (i) 16.48 ML/day of A Class,
 - (ii) 53.09 ML/day of B Class, and
 - (iii) 54.92 ML/day of C Class.

48 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

Note—

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

49 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 47 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

50 Granting of unassigned TDEL

- (1) Any unassigned TDEL may be assigned to access licences in the following circumstances:
 - (a) where they are granted as part of a new access licence,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent

with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 49, as amended by clause 51.

51 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 50, any unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 47 is increased accordingly.
- (2) Pursuant to section 45 (1) (b) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 48 then, if necessary, the TDEL for unregulated river access licences in clause 47 (3) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence shall then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 45 (1) (b) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new access licences for local water utilities, domestic and stock access, unregulated river (Aboriginal cultural) access, unregulated river (Aboriginal commercial) access, and unregulated river (research) access, or
 - (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,then the TDEL for unregulated river access licences in clause 47 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If A or B class daily extraction limits are surrendered in accordance with clause 32 (2) (d), the TDEL for unregulated river access licences in clause 46 (1) and clause 47 (3) will be reduced to reflect this change, and the planned environmental water in clause 21 (1) (b) and (c) increased by a corresponding amount.
- (7) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the

IDEL on the access licence so committed and clauses 46 and 47 adjusted accordingly, or

(b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 46 and 47 adjusted accordingly.

(8) The TDELs specified in clause 46, and the assignment of TDELs specified in clause 47, shall be varied in accordance with any dealing under sections 71M, 71N or 71Q of the Act between the Upper Coopers Creek Management Zone and the Lower Coopers Creek Management Zone.

52 Administrative arrangements for managing access to daily flows

(1) Notwithstanding the forgoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELs.

(2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:

(a) all access licences with IDELs shall be made part of a group maintained by the Minister, and

(b) access licences with IDELs will be assessed as a whole against their combined IDELs.

(3) At any time when subclause (2) does not apply:

(a) access licence holders may make a request to form a group for their access licences,

(b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDEL, and

(c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.

(4) Groups will be managed according to the following rules:

(a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,

(b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,

(c) where daily extraction by a group exceeds the combined IDELs of all access

licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,

- (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (e) an access licence may not be in more than one group, and
- (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

53 Infrastructure failure

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

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

Note—

Infrastructure is defined in the dictionary.

Note—

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

Part 11 Access licence dealing rules

54 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71Z of the Act.
- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71Z of the Act and the rules in this Part.

Note—

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

Note—

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

55 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71Q, 71S and 71W of the Act, and with respect to water allocation assignments within this water source under section 71T of the Act.
- (2) Dealings under sections 71Q, 71S and 71T of the Act are prohibited under this clause if the dealing is from an access licence which nominates a water supply work:
 - (a) outside of the Restricted Trading Zone, to an access licence which nominates a water supply work within the Restricted Trading Zone,
 - (b) in the Upper Coopers Creek Management Zone, to an access licence which nominates a water supply work in the Lower Coopers Creek Management Zone,
 - (c) in the Lower Coopers Creek Management Zone, to an access licence which nominates a water supply work in the Upper Coopers Creek Management Zone, and
 - (d) on a tributary river of Coopers Creek, to an access licence which nominates a water supply work on Coopers Creek.
- (3) Dealings under section 71S of the Act are prohibited under this clause if the dealing involves a change to a management zone specified in the extraction component of an access licence.
- (4) Dealings under section 71W of the Act are prohibited under this clause if the dealing involves an access licence which nominates a water supply work:
 - (a) outside of the Restricted Trading Zone, nominating a water supply work within the Restricted Trading Zone,
 - (b) in the Upper Coopers Creek Management Zone, nominating a water supply work in the Lower Coopers Creek Management Zone,
 - (c) in the Lower Coopers Creek Management Zone, nominating a water supply work in the Upper Coopers Creek Management Zone, and
 - (d) on a tributary river of Coopers Creek, nominating a water supply work on Coopers Creek.

56 Rules for access licence dealings which alter the times, rates or circumstances

specified in access licence extraction components

Notwithstanding clause 55, applications under section 71S of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 50.

57 Rules for change of water source

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

Note—

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

(2) Dealings under section 71R of the Act are prohibited in this water source, unless provided for in this clause.

(3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if the new access licence issued is within this Unit, and the access licence dealing rules in the other water source permit such a dealing.

(4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source only if the access licence dealing rules in the other water source permit such a dealing, and

(a) the access licence cancelled is within this Unit, and

(b) the total access licence share components in this water source do not increase above those existing at the commencement of this Plan.

(5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component.

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

58 Rules for conversion of access licence

(1) This clause relates to dealing under section 71O 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 an unregulated river access licence to an unregulated river (high flow) access licence.

(3) For any conversion of an access licence under subclause (2) the access licence being converted shall be cancelled and a new licence issued.

- (4) The share component of the access licence issued under subclauses (2) and (3) is to be equal to 3 times the cancelled access licence share component.
- (5) The total amount of all unregulated river (high flow) access licence share components converted under subclauses (2) and (3) shall be limited to 3000 unit shares.

59 Rules for interstate access licence transfer

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

60 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71T of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71T of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted, subject to clause 55.

Note—

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

61 Rules for interstate assignment of water allocations

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

Part 12 Mandatory conditions

62 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions in relation to the following:

- (a) the specification of the share component of the access licence,
- (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
- (c) the requirement that extraction under the access licence will be subject to the available water determinations,
- (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
- (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
- (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
- (g) any other conditions required to implement the provisions of this Plan.

63 Very low flow access conditions

- (1) Notwithstanding any cease to pump conditions established on the licence, during periods of very low flows, holders of access licences listed on Schedule 4 may continue to access water to comply with the requirements of the Food Production (Safety) Act or the Prevention of Cruelty to Animals Act for the following purposes:
 - (a) fruit washing,
 - (b) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (c) poultry watering and misting, and
 - (d) cleaning of enclosures used for intensive animal production for the purposes of hygiene.
- (2) The maximum daily volume that can be extracted under subclause (1) will be the minimum required to satisfy the purposes in that subclause, will be individually assessed and specified on each access licence within 12 months of the commencement of this Plan, will not exceed 20 kilolitres per day, and will not be increased.
- (3) Upon written request by the holder of an access licence, the Minister may add a licence to Schedule 4, but only if the licence meets the purpose requirements established in subclause (1), and the purpose existed prior to 1 July 2004.

- (4) A licence will be removed from the Schedule if:
 - (a) any access licence dealing results in the water being extracted from a different location,
 - (b) an alternative water supply is obtained, that satisfies the requirements of subclause (1), or
 - (c) the licence is surrendered, cancelled, or not renewed.
- (5) Notwithstanding subclauses (1) to (4), extraction of water by an approved water supply work is only permitted if there is visible flow in the river in the vicinity of the work.
- (6) An assessment of the continuing requirements for access under this clause will be undertaken before the end of the Plan, and the schedule amended or deleted at the end of the Plan, if such a review determines that this concessional access is no longer required.
- (7) The assessment made under subclause (6) will be undertaken for the Plan as a whole, and for each individual licence on the Schedule.

64 Additional mandatory conditions on unregulated river access licences

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

- (a) water may not be taken when flows are within the Very Low Flow Class, except where subclauses (e) and (f) apply,
- (b) if A Class, B Class or C Class has been determined by the Minister, water may only be taken at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised through a registered group, and except where subclauses (d) and (f) apply,
- (c) if A Class, B Class or C Class has not been determined by the Minister and flows exceed the Very Low Flow Class then water may be taken without any restriction in rate or timing, except where subclause (d) applies,
- (d) if flows have risen from the Very Low Flow Class to more than 31 ML/day within a 24 hour period, water may not be taken in the 48 hour period after flows first exceeded 31 ML/day,
- (e) subclauses (a) and (d) shall not apply to an access licence listed in Schedule 4, and
- (f) subclauses (a) and (b) do not apply to extractions from an in-river dam while the dam is passing all inflows.

65 Additional mandatory conditions on local water utility access licences

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

- (a) water may not be taken when flows are within the Very Low Flow Class, except where subclause (e) applies,
- (b) if A Class, B Class or C Class has been determined by the Minister, water may only be taken at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised through a registered group, and except where subclauses (d) and (e) apply,
- (c) if A Class, B Class or C Class has not been determined by the Minister and flows exceed the Very Low Flow Class then water may be taken without any restriction in rate or timing, except where subclause (d) applies,
- (d) if flows have risen from the Very Low Flow Class to more than 31 ML/day within a 24 hour period, water may not be taken in the 48 hour period after flows first exceeded 31 ML/day,
- (e) subclauses (a) and (b) do not apply to extractions from an in-river dam while the dam is passing all inflows.

66 Additional mandatory conditions on domestic and stock access licences

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

- (a) water may not be taken when flows are within the Very Low Flow Class, except where subclause (e) applies,
- (b) if A Class, B Class or C Class has been determined by the Minister, water may only be taken at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised through a registered group, and except where subclauses (d) and (e) apply,
- (c) if A Class, B Class or C Class has not been determined by the Minister and flows exceed the Very Low Flow Class then water may be taken without any restriction in rate or timing, except where subclause (d) applies,
- (d) if flows have risen from the Very Low Flow Class to more than 31 ML/day within a 24 hour period, water may not be taken in the 48 hour period after flows first exceeded 31 ML/day,
- (e) subclauses (a) and (b) do not apply to extractions from an in-river dam while the dam is passing all inflows.

67 Runoff harvesting access licences

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

68, 69 (Repealed)

70 Additional mandatory conditions on unregulated river (high flow) access licences

All unregulated river (high flow) access licences shall have mandatory conditions to give effect to clauses 21 (2) (b) (iv) and 21 (2) (c).

71 Mandatory conditions on water supply works approvals

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

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence,
- (f) a 100 metre buffer will be applied between any endangered ecological community and the location of any new water supply work, if required to protect the endangered ecological community, and
- (g) appropriate buffers will be applied between any Aboriginal sites of spiritual, cultural or social values as identified by the Bundjalung Elders and the relevant Aboriginal Land Council, and the location of any new water supply work, if required to protect the Aboriginal sites of spiritual, cultural or social values.

Part 13 Granting and amending water supply works approvals

72 Granting and amending water supply works approvals

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

73 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note—

Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

74 In-river dams

No new in-river dams shall be approved within this water source.

Note—

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

Part 14 Monitoring and reporting

75 Monitoring and reporting of performance indicators

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

Note—

Review and Audit of this Plan

In accordance with section 43A of the Act, the Natural Resources Commission must undertake a review of this Plan prior to any decision to extend its term or to make a new plan. The review must consider the extent to which the Plan's water sharing provisions have contributed to achieving or not achieving the 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 Natural Resources Commission is required to call for public submissions. The Commission will take into consideration any submission received as well as any other relevant State-wide or

regional government policies or agreements that apply to the 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

76 Amendment of this Plan

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

77 Additional access rules under planned environmental water

The Minister may amend this Plan in accordance with clauses 21 (3), (4), (5) and (6) in respect to additional access rules for licence holders.

78 (Repealed)

79 Other amendments of this Plan

The Minister may amend this Plan in accordance with:

- (a) clause 17 (3) in respect to the Very Low Flow Class and A Class threshold flow rates, and
- (b) clause 51 in respect to adjustments to TDELS and IDELS.

80 Amendment relating to planned environmental water

- (1) The Minister may amend this Plan to provide for the recovery of planned environmental water as follows:
 - (a) the recovery is only to apply where the Minister has cancelled an access licence held by the Minister in accordance with section 8A of the Act,
 - (b) the amount of additional water to be provided as planned environmental water is to be equivalent to the annual average extraction of water under the cancelled licence over the long-term,

(c) the average annual long-term availability of water for the remaining access licences that relate to the water source concerned is to be reduced by the average annual long-term extraction of water under the cancelled licence.

(2) The Minister may amend this Plan to specify the purposes for which planned environmental water committed under section 8A of the Act is to be used.

81 Amendment of Plan relating to floodplain harvesting

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

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

Dictionary

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

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

Note—

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

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

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

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

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

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

river dam and **runoff harvesting dam**.

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

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

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

infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

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

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

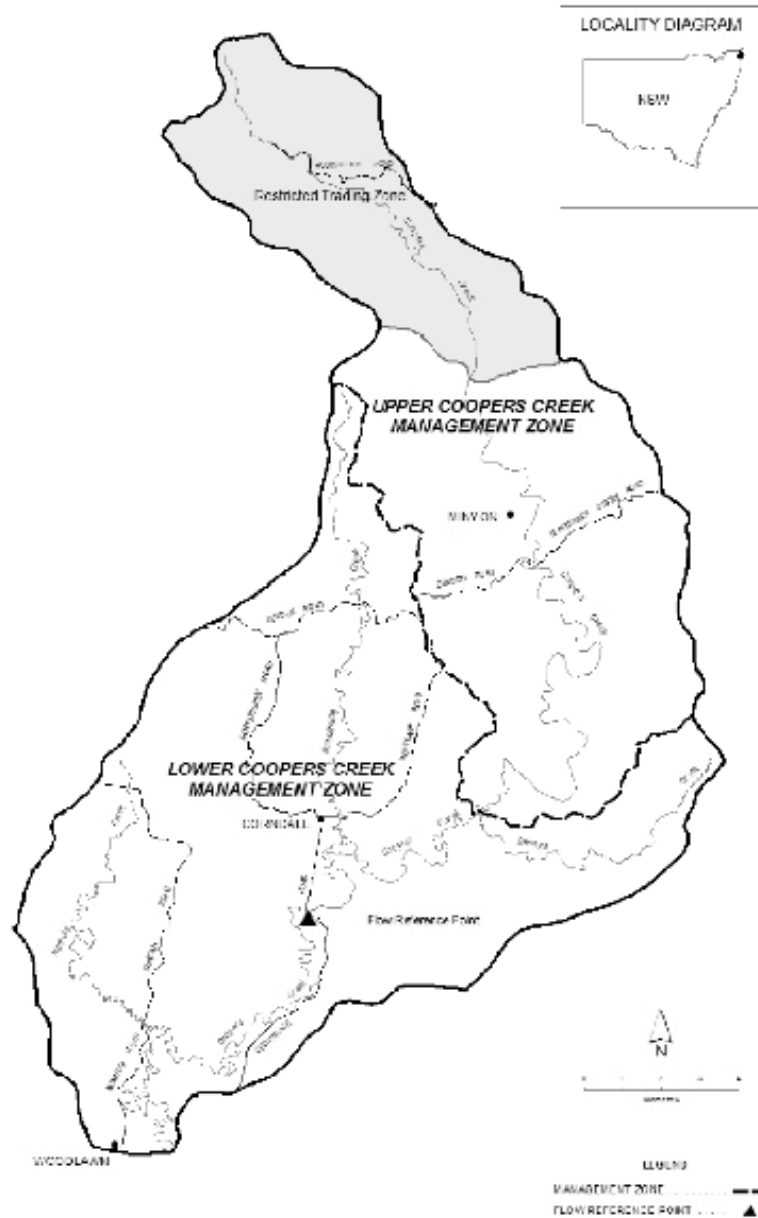
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the [Water Act 1912](#) in relation to the definition of a river gazetted 23 March 2001. See also **farm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

Note—

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

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

Schedule 2 Coopers Creek Water Source



Schedule 3 Rivers in the Coopers Creek Water Source

This water source includes, without limitation:

- Bennys Creek
- Boomerang Creek

Byrangery Creek

Coopers Creek

Dans Creek

Little Bennys Creek

Numalgi Creek

Repentance Creek

Turkey Creek

Yankey Creek

Schedule 4 Access licences with access to the Very Low Flow Class

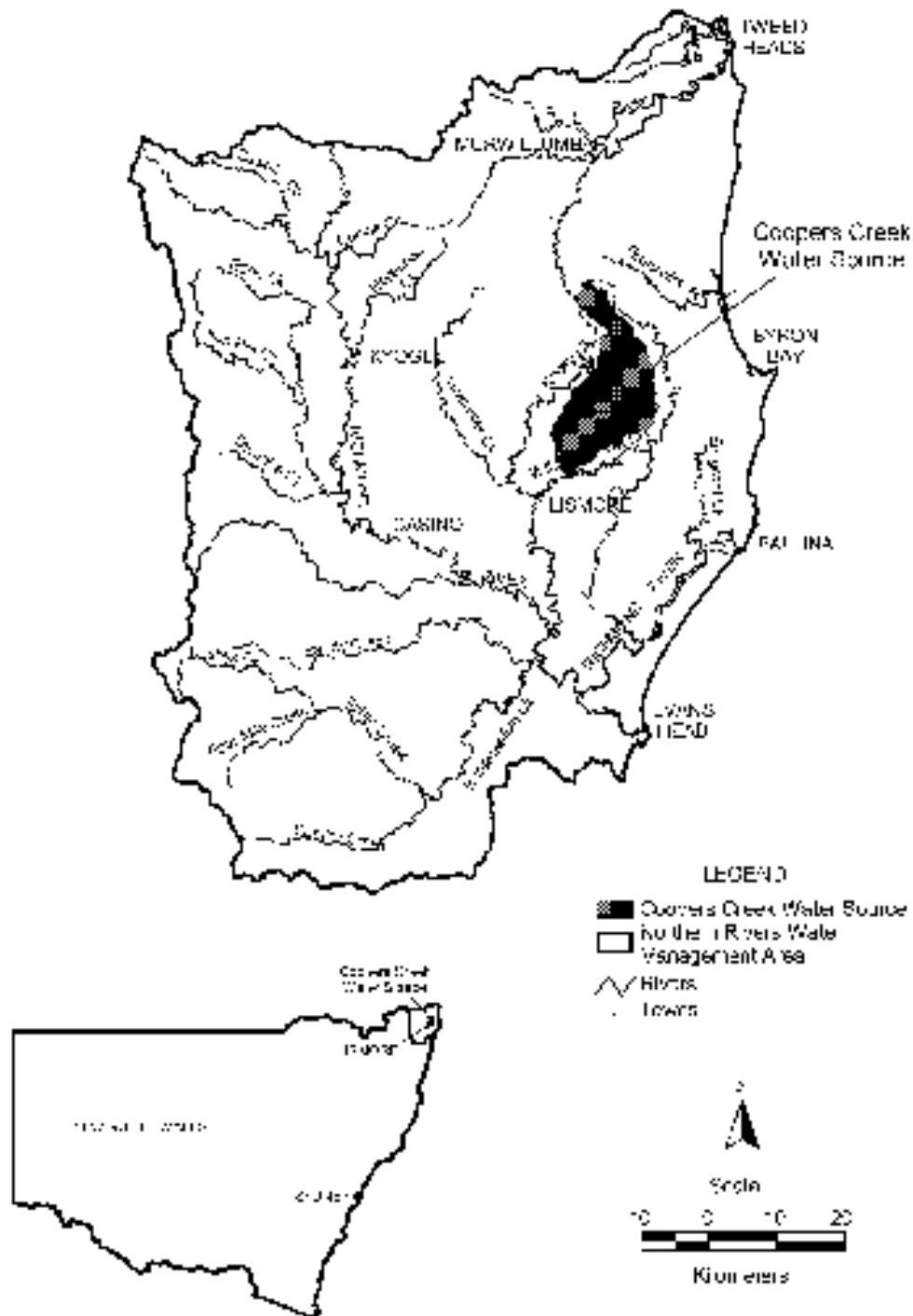
Access licence number	Purpose
30SL037403	Dairy washdown
30SL039160	Dairy washdown
30SL039693	Piggery hosedown
30SL040380	Dairy washdown
30SL066147	Chicken cooling
30SL066308	Dairy washdown
30SL066309	Dairy washdown

Note—

The access licence details 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 (Repealed)

Appendix 1 Northern Rivers Water Management Area



Appendix 2 Location of maps

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

Department of Water and Energy
Suite 6, Alstonville Plaza

ALSTONVILLE NSW 2477

Department of Water and Energy
76 Victoria Street
GRAFTON NSW 2460

Appendix 3 Performance indicators

Performance indicators for the Coopers Creek Water Sharing Plan

Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (d) 11 (e) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics, from time of Plan commencement, at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. <p>Note—</p> <p>Not every objective is relevant to every river in NSW.</p> <ul style="list-style-type: none"> Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers. Where data is limited, it is only possible to assess change from the period of plan commencement to the time the indicator is assessed. There will be a high climatic influence on changes to the flow characteristics, depending on if the time period of assessment has been wet or dry.

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

<p>(e) Change in economic benefits derived from water extraction and use.</p>	<p>11 (e) 11 (f) 11 (g)</p>	<ul style="list-style-type: none"> • Number of days access provided over the time of the plan. • Number of new off stream storages. • Change in unit price of water transferred. • Change in gross margins. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of new off stream storages will indicate the adjustment to the rules and the ongoing access to water. • Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions. • The data can reflect changes in crops, commodity prices, climate, water availability, economic climate and input costs.
<p>(f) Extent to which native title rights requirements have been met.</p>	<p>11 (b)</p>	<ul style="list-style-type: none"> • Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
<p>(g) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.</p>	<p>11 (b)</p>	<ul style="list-style-type: none"> • Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. • The number referrals to Local Aboriginal Land Councils and Bundjalung Elders. • Information on the number of water transfers and number of new licence applications for interpretation. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement. • Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values.

Appendix 4 (Repealed)