

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

[2009-218]



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—

- **Note**

This Plan ceased to have effect on 1.7.2021—see cl 3 and GG No 66 of 28.6.2019, n2019-1848.

### 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 NSW Border Rivers Regulated River Water Source 2009



New South Wales

## Contents

<b>Part 1 Introduction</b> .....	6
1 Name of Plan .....	6
2 Nature and status of this Plan .....	6
3 Date of commencement .....	6
4 Water source and waters to which this Plan applies .....	6
5 Interpretation .....	7
<b>Part 2 Vision, objectives, strategies and performance indicators</b> .....	8
6 Vision, objectives, strategies and performance indicators.....	8
7 Vision.....	8
8 Objectives.....	8
9 Strategies .....	8
10 Performance Indicators.....	9
<b>Part 3 Environmental water provisions</b> .....	9
11 Environmental water provisions .....	9
12 Planned environmental water.....	9
13 Adaptive environmental water .....	11
<b>Part 4 Basic landholder rights</b> .....	11
14 Basic landholder rights .....	11
15 Domestic and stock rights .....	12
16 Native title rights.....	12

<b>Part 5 Bulk access regime</b> .....	13
17 Bulk access regime.....	13
<b>Part 6 Requirements for water for extraction under access licences</b> .....	13
18 Requirements for water for extraction under access licences .....	13
19 Share component of domestic and stock access licences .....	14
20 Share component of local water utility access licences.....	14
21 Share component of regulated river (high security) access licences.....	14
22 Share component of regulated river (general security—A class) access licences .....	14
23 Share component of regulated river (general security—B class) access licences .....	14
24 Share component of supplementary water access licences .....	14
25 Changes to total share component.....	14
<b>Part 7 Rules for granting access licences</b> .....	15
26 Rules for granting access licences.....	15
<b>Part 8 Limits to the availability of water</b> .....	16
<b>Division 1 Long-term extraction limit</b> .....	16
27 Limits to the availability of water .....	16
28 Volume of the long term extraction limit .....	16
29 Assessment of the long term extraction limit and current long term average annual extraction.....	17
30 Compliance with the long term extraction limit.....	18
31 Limit to the volumes that may be taken under or assigned from regulated river (general security—A class) and regulated river (general security—B class) access licences .....	18
<b>Division 2 Available water determinations</b> .....	19
32 Available water determinations .....	19
33 Available water determinations for domestic and stock access licences.....	19
34 Available water determinations for local water utility access licences .....	20
35 Available water determinations for regulated river (high security) access licences .....	20
36 Available water determinations for regulated river (general security—A class) access licences .....	21
37 Available water determinations for regulated river (general security—B class) access licences .....	22
38 Available water determinations for supplementary water access licences.....	23

39 Available water determinations for floodplain harvesting .....	23
<b>Part 9 Rules for managing access licences</b> .....	<b>23</b>
<b>Division 1 General</b> .....	<b>23</b>
40 Rules for managing access licences .....	23
<b>Division 2 Water allocation account management</b> .....	<b>24</b>
41 Volume taken under access licences .....	24
42 Carrying over of water allocations and water allocation account limits.....	24
<b>Division 3 Extraction conditions</b> .....	<b>25</b>
43 General priority of extractions.....	25
44 Numerical specification of extraction components .....	25
45 Taking of water under supplementary water access licences upstream of the Macintyre River and Dumaresq River junction .....	26
46 Taking of water under supplementary water access licences downstream of the Macintyre River and Dumaresq River junction .....	30
<b>Part 10 Access licence dealing rules</b> .....	<b>34</b>
47 Access licence dealing rules .....	34
48 Rules relating to constraints within this water source .....	34
49 Rules for change of water source .....	34
50 Rules for conversion of access licence category.....	35
51 Rules for interstate access licence transfer .....	37
52 Rules for water allocation assignment between water sources .....	37
53 Rules for interstate assignment of water allocations.....	37
54 Rules for nominating interstate water supply works.....	38
<b>Part 11 Mandatory conditions</b> .....	<b>38</b>
55 Mandatory conditions on access licences.....	38
56 Mandatory conditions on water supply works approvals .....	39
<b>Part 12 System operation rules</b> .....	<b>40</b>
57 System operation rules.....	40

58 Replenishment Flows .....	40
59 Water delivery and channel capacity constraints .....	40
60 Rates of change to storage releases .....	41
61 Supply of orders when remaining allocations are low.....	41
62 Dam operation during floods and spills .....	41
<b>Part 13 Monitoring and reporting</b> .....	<b>42</b>
63 Monitoring .....	42
<b>Part 14 Other amendments to this Plan</b> .....	<b>42</b>
64 Other amendments to this Plan.....	42
<b>Dictionary</b> .....	<b>42</b>
<b>Schedule 2 Supplementary water access licences nominating water supply works upstream of the Macintyre River and Dumaresq River junction that are not subject to the rules in clause 45</b> .....	<b>42</b>
<b>Schedule 3 Supplementary water access licences nominating water supply works downstream of the Macintyre River and Dumaresq River junction that are subject to the rules in clause 45</b> .....	<b>43</b>
<b>Appendix 1 Border Rivers Regulated River Water Source</b> .....	<b>44</b>
<b>Appendix 2 Performance indicators</b> .....	<b>44</b>
<b>Appendix 3 Inter-governmental Agreement Statement of Principles</b> .....	<b>47</b>

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



New South Wales

## Part 1 Introduction

### 1 Name of Plan

This Plan is the *Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009* (hereafter **this Plan**).

### 2 Nature and status of this Plan

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

### 3 Date of commencement

This Plan commences on 1 July 2009.

### 4 Water source and waters to which this Plan applies

- (1) The water source in respect to which this Plan is made shall be known as the Border Rivers Regulated River Water Source (hereafter **this water source**) and is all surface water between the banks of all rivers, from:
  - (a) the Pindari Dam water storage downstream to the Pindari Dam wall,
  - (b) the Severn River from Pindari Dam wall downstream to its junction with the Macintyre River,
  - (c) the Macintyre River from its junction with the Severn River downstream to the junction of the Barwon River,
  - (d) the Barwon River from its junction with the Macintyre River downstream to Mungindi Weir,
  - (e) the Dumaresq River from its junction with Pike Creek downstream to the junction

of the Macintyre River,

which have been declared by the Minister to be regulated rivers and that is available to New South Wales under the terms of the *New South Wales—Queensland Border Rivers Act 1947*, the Border Rivers Agreement 1947 and the *New South Wales - Queensland Border Rivers Intergovernmental Agreement 2008* (hereafter **the IGA**).

**Note—**

- (1) This water source is shown on the map in Appendix 1.
  - (2) The IGA covers water management issues in the Border Rivers.
  - (3) A separate Water Management Plan and Resource Operations Plan has been developed under the *Queensland Water Act 2000* which covers the water distributed to Queensland under the Border Rivers Agreement 1947.
  - (4) A regulated river is a river that has been declared by the Minister, by order published in the New South Wales Government Gazette, to be a regulated river.
- (2) This water source is within the Border Rivers Water Management Area constituted by the Ministerial order published in the NSW Government Gazette (hereafter **the Gazette**) on 23 November 2001.
  - (3) This Plan does not apply to waters contained within aquifer water sources underlying this water source or to water on land adjacent to this water source.
  - (4) The Minister may amend subclause (1) to add a river or section of river to this water source or remove a river or section of river from this water source providing that:
    - (a) any river or section of river that is added has been declared to be a regulated river by an order published in the Gazette, and
    - (b) the Minister is satisfied that there will be no impact on environmental water, domestic and stock rights, native title rights or on the water available to any access licences in these water sources.
  - (5) The Minister may amend subclauses (1) and (3) to provide for the harvesting of water from the floodplain.

## **5 Interpretation**

- (1) Words and expressions that are defined in the Act have the same meaning in this Plan.
- (2) Words and expressions that are defined in Schedule 1 of this Plan have the meaning set out in that Schedule.
- (3) Schedules to this Plan form part of this Plan.
- (4) Notes in the text of this Plan do not form part of this Plan.

(5) Appendices to this Plan do not form part of this Plan.

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

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

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

### **7 Vision**

The vision for this Plan is to have a sustainable, healthy working river system that meets community, environmental, agricultural and industrial needs.

### **8 Objectives**

The objectives of this Plan are to:

- (a) manage this water source to ensure equitable sharing of water between all uses,
- (b) implement environmental flow rules that protect, maintain and enhance the environmental, cultural and heritage values of this water source,
- (c) maintain and where feasible improve the flow related water quality in this water source,
- (d) manage this water source to preserve and provide for basic landholder rights,
- (e) manage this water source to preserve and enhance cultural and heritage values, and
- (f) provide a market based trading of surface water entitlements in this water source.

#### **Note—**

- (1) While there are no specific strategies directly related to objective (e) in this Plan, the environmental water provisions in this Plan aim to make a contribution towards the preservation of cultural and heritage values.
- (2) The Statement of Principles underpinning the IGA is referenced in Appendix 3.

### **9 Strategies**

The strategies of this Plan are to:

- (a) establish environmental water provisions (Part 3 of this Plan),
- (b) identify water requirements for basic landholder rights (Part 4 of this Plan),
- (c) identify water requirements for extraction under access licences (Part 6 of this Plan),
- (d) establish rules for granting of access licences (Part 7 of this Plan),
- (e) establish provisions that place limits on the availability of water (Part 8 of this Plan),



- (f) establish rules for making available water determinations in this water source (Part 8 of this Plan),
- (g) establish rules for the operation of water accounts (Part 9 of this Plan),
- (h) establish provisions specifying circumstances under which water may be extracted (Part 9 of this Plan), and
- (i) establish access licence dealing rules (Part 10 of this Plan).

## **10 Performance Indicators**

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

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

### **Note—**

Appendix 2 details the objectives to which these performance indicators relate and the methods for assessing these performance indicators.

## **Part 3 Environmental water provisions**

### **11 Environmental water provisions**

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

### **12 Planned environmental water**

This Plan establishes the following planned environmental water rules for this water source:

- (a) water in excess of the long-term extraction limit established in clause 28 of this Plan

may not be taken from this water source or used for any purpose,

**Note—**

The definition of the long-term extraction limit established in clause 28 also applies to Queensland under the terms of the IGA.

- (b) water availability is to be managed as specified in clause 30 of this Plan to ensure water volume in excess of the long-term extraction limit is not being taken,

**Note—**

By limiting long-term average annual extractions to an estimated 194,500 megalitres per year this Plan attempts to ensure that approximately 60% of the long-term average annual flow in this water source at Mungindi (estimated to be 565,560 megalitres per year) will be preserved and will contribute to the maintenance of basic ecosystem health.

**Note—**

The definition of the long-term average annual flow to this water source also applies to Queensland under the terms of the IGA.

- (c) a minimum daily release will be made from Pindari Dam that is equal to 10 megalitres (hereafter **ML**) except when a release of greater than 10 ML/d is required to meet basic landholder rights and access licence extractions,

**Note—**

The continuous low flow aims to provide connectivity for downstream pools and riffles and curtail problems associated with extended flow recession.

- (d) in the months of September, October, November, December, January, February, March, April and May inflows into Pindari Dam will be released from Pindari Dam, up to a limit of 50 megalitres per day (hereafter **ML/d**), except when a release of greater than 50 ML/d is required to meet basic landholder rights and access licence extractions,
- (e) in the months of June, July and August inflows into Pindari Dam will be released from Pindari Dam, up to a limit of 200 ML/d, except when a release of greater than 200 ML/d is required to meet basic landholder rights and access licence extractions,
- (f) at the start of each water year, 4000 ML shall be set aside in Pindari Dam for the purpose a releasing a flow called a stimulus flow from the Pindari Dam,
- (g) a stimulus flow shall be released from Pindari Dam if an inflow into Pindari Dam of greater than 1200 ML/d has occurred on any day between the 1 April and 31 August,
- (h) the stimulus flow released under subclause (g) shall be made between 1 August and 1 December,
- (i) the timing, rate, volume and duration of the stimulus flow released between 1 August and 1 December shall be determined by the Department and the Department responsible for the Environment, after taking into consideration factors such as:

- (i) antecedent conditions,
- (ii) irrigation demand,
- (iii) flows in this water source, and
- (iv) the ability to monitor environmental outcomes,

**Note—**

The aim of the stimulus flow is to provide a flow in the river that mirrors a naturally occurring hydrograph, targets pre-season cues to fish breeding and to regularly wet and inundate interconnected riparian areas.

- (j) 7 days notice of the intent to release the stimulus flow under subclauses (g) and (h), shall be provided to State Water,
- (k) the water set aside for a stimulus flow under subclause (f), but not released pursuant to subclauses (g) and (h), may be carried over to the next water year, provided that the total amount of water available at the start of the water year to be released as a stimulus flow does not exceed 8000 ML,
- (l) releases from Pindari Dam as described in subclauses (d), (e), (g) and (h) are to be protected from extraction downstream of Pindari Dam to the confluence of the Severn River and Frazers Creek,
- (m) during the period from 1 September of each year to 31 March of each following year, the holder of an access licence is not permitted to take uncontrolled stream flow from this water source, which, after taking into account stream losses, would result in a flow in the Barwon River at Mungindi of 100 ML/day or less.

**Note—**

This rule is outlined in the IGA which has the objective of improving low flows at the end of the Border Rivers system to support a healthy riverine environment.

### **13 Adaptive environmental water**

- (1) The holder of an access licence in this water source may request that the Minister impose an adaptive environmental water condition in respect of the access licence.
- (2) An access licence may be granted in this water source, in accordance with section 8C of the Act.
- (3) The Minister may keep, transfer or change the category of an access licence in this water source, in accordance with section 8D of the Act.

## **Part 4 Basic landholder rights**

### **14 Basic landholder rights**

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

## 15 Domestic and stock rights

- (1) At the commencement of this Plan, the water requirements of holders of domestic and stock rights in this water source are estimated to be 8,000 megalitres per year (hereafter **ML/yr**).
- (2) This Plan recognises that the exercise of domestic and stock rights may change during the term of this Plan.
- (3) The water supply system shall be managed so that it would be capable of maintaining supply to those exercising domestic and stock rights in this water source through a repeat of the worst period of low inflows into this water source (based on historical flow information held by the Department when this Plan commenced).
- (4) To achieve subclause (3) sufficient volumes of water must be set aside from assured inflows into this water source and reserves held in Pindari Dam and Glenlyon Dam water storages.

### Note—

- (1) Basic landholders rights exercised under section 52 of the Act must be exercised in accordance with any guidelines established by the Minister with respect to the reasonable use of water for domestic consumption and stock watering.
- (2) An increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting this water source and/or as a result of the increase in the exercise of domestic and stock rights by existing landholders. The Minister may limit new domestic and stock rights in new subdivisions in this water source by regulation under section 52 (2) of the Act.
- (3) Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water from this water source should not be consumed without it first being tested and appropriately treated.

## 16 Native title rights

- (1) At the commencement of this Plan, there are no holders of native title rights in this water source and therefore native title rights are 0 ML/yr.
- (2) This Plan recognises that 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 [Native Title Act 1993](#).

- (3) The water supply system shall be managed so that it would be capable of maintaining supply to those exercising native title rights in this water source through a repeat of the worst period of inflows into this water source prior to the commencement of this Plan, as represented in flow information held by the Department.
- (4) To achieve subclause (3), sufficient volumes of water must be set aside from assured inflows into this water source and reserves held in Pindari Dam and Glenlyon Dam

water storages.

## **Part 5 Bulk access regime**

### **17 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 3 of this Plan,
  - (b) the requirements for basic landholder rights identified in Part 4 of this Plan, and
  - (c) the requirements for water extraction under access licences identified under Part 6 of this Plan.
- (3) The bulk access regime established in subclause (2):
  - (a) establishes rules according to which access licences are granted as provided for in Part 7 of this Plan,
  - (b) recognises and is consistent with limits to the availability of water as provided for in Part 8 of this Plan,
  - (c) establishes rules according to which available water determinations are to be made as provided for in Part 8 of this Plan,
  - (d) recognises the effect of climate variability on the availability of water as provided for in Part 8 of this Plan,
  - (e) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction of the availability of water as provided for in Part 8 of this Plan, and
  - (f) establishes rules according to which access licences are to be managed as provided for in Part 9 of this Plan.

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

### **18 Requirements for water for extraction 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 this water source at the time of making this Plan. The actual volumes available at any time will depend on climate, access licence priority, the rules in this Plan and the amount of water that is available to New South Wales, from time to time, under the terms of the [New South](#)

*Wales—Queensland Border Rivers Act 1947*, the Border Rivers Agreement 1947 and the IGA.

### **19 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 this water source will total 1,205 ML/yr.

### **20 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 this water source will total 620 ML/yr.

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

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of regulated river (high security) access licences authorised to extract water from this water source will total 1,233 unit shares.

### **22 Share component of regulated river (general security—A class) access licences**

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of regulated river (general security—A class) access licences authorised to extract water from this water source will total 21,000 unit shares.

### **23 Share component of regulated river (general security—B class) access licences**

It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act, the share components of regulated river (general security—B class) access licences authorised to extract water from this water source will total 244,000 unit shares.

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

At the time of commencement of Part 2 of Chapter 3 of the Act, the share components of supplementary water access licences authorised to extract water from this water source will total 120,000 unit shares.

### **25 Changes to total share component**

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

- (a) the granting, surrender, cancellation of access licences, or
- (b) the granting, surrender or cancellation of access licences through a dealing under Part 11 of this Plan, or
- (c) variations to local water utility access licences arising under section 66 of the Act.

## Part 7 Rules for granting access licences

### 26 Rules for granting access licences

- (1) This Part is made in accordance with section 20 (2) (b) of the Act, having regard to the limits to water availability in this water source and the need to protect dependent ecosystems.
- (2) Applications for access licences may be made and access licences granted if they are for:
  - (a) a specific purpose access licence for which an application may be made under the *Water Management (General) Regulation 2004* (hereafter **the Regulations**) 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.
- (3) 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.
- (4) The Minister may amend clause 26 to permit the application and granting of licences for the purpose of floodplain harvesting.

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

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

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

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

#### **28 Volume of the long term extraction limit**

- (1) This Plan establishes a long term extraction limit for this water source (hereafter the ***long term extraction limit***) which is the lesser of:
  - (a) the long term average annual extraction from this water source that would occur with the water storages, water use development that existed in 2001/2002, the share components existing at the commencement of this Plan and application of the rules defined in this Plan, or
  - (b) the long-term average annual extraction from this water source that would occur under Cap baseline conditions as agreed under the Murray Darling Basin Agreement.

**Note—**

The Cap baseline conditions in this water source are the level of development at 1993-94 with an allowance for an enlarged Pindari Dam. This is deemed to be equivalent to the water use development that existed in November 1999.

**Note—**

An assessment of the long term average annual extraction that would occur under the conditions specified in subclause (1) for NSW and Queensland has been made using the Border Rivers IQQM computer model with system file BR0609U4, S7 IQQMV6.73.4 (CSIQQM) which indicates a long term average annual extraction volume of 399,400 megalitres to be shared between NSW and Queensland.

**Note—**

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

**Note—**

If a NSW water access licence is used in Queensland, by nominating works in Queensland, the use is still 'tagged' to NSW when assessing compliance with the Cap/Plan Limit.

- (2) The long term extraction limit referred to in subclause (1) shall be adjusted for any access licence dealing under section 71R of the Act.
- (3) For the purposes of establishing the long term extraction limit in subclause (1) and auditing compliance with it under clauses 29 and 30:



(a) the following shall be included:

- (i) all water extractions by all categories of access licences in this water source, in accordance with the rules used for accounting of Cap diversions in Schedule E of the Murray Darling Basin Agreement,
- (ii) domestic and stock and native title extractions,
- (iii) volumes of water delivered as adaptive environmental water,
- (iv) floodplain harvesting extractions estimated to be taken for use in conjunction with extractions authorised from this water source, and
- (v) water allocations assigned from access licence water allocation accounts in this water source to access licence water allocation accounts in another water source,

(b) the assessed volume of extractions shall be reduced by the volume of water allocations being assigned from the water allocation accounts of access licences in any other water source to the water allocation accounts of access licences in this water source, and

(c) the following shall not be included:

- (i) replenishment flows made in accordance with this Plan, or
- (ii) diversion of water pursuant to the planned environmental water rules in Part 3 of this Plan.

(4) The Minister may amend clause 28 so as to establish a separate long term extraction limit for floodplain harvesting extractions and account the water taken from the floodplain against the separate long term extraction limit, so long as the total of the two long term extraction limits does not exceed extractions permitted under Schedule E of the Murray Darling Basin Agreement.

**29 Assessment of the long term extraction limit and current long term average annual extraction**

- (1) Assessment of the long term extraction limit and the current long term average annual extraction shall be carried out after the end of each water year, using the hydrologic computer model that, at the time of assessment, is approved by the Department for assessing long term water use from this water source.
- (2) To assess the long term extraction limit, the model referred to in subclause (1) shall be set to represent as closely as possible the conditions referred to in clause 28.
- (3) To assess the current long term average annual extraction from this water source the model referred to in subclause (1) shall be set to represent as closely as possible all

water use development, supply system management and other factors affecting the quantity of long term average annual extraction from this water source at the time of compliance assessment.

### **30 Compliance with the long term extraction limit**

- (1) The long term average annual extraction from this water source may not be permitted to exceed the long term extraction limit specified in clause 28.
- (2) Pursuant to subclause (1):
  - (a) if it has been assessed that the current long term average annual extraction from this water source exceeds the long term extraction limit by 3% or more, then the maximum available water determination made for supplementary water access licences in this water source under clause 38 shall be reduced, and
  - (b) if necessary, the maximum volume that may be taken or assigned from a regulated river (general security—A class) and a regulated river (general security—B class) access licence under clause 31 shall be reduced.
- (3) The degree of reduction under subclause (2) shall be that which is assessed as necessary to return long term average annual extractions to the long term extraction limit.
- (4) If action has been taken under subclause (2), and a subsequent assessment under clause 29 indicates that the current long term average annual extraction is below the long term extraction limit by more than 3%, then previous reductions made under subclause (2) may be reversed to the degree that it is as assessed necessary to return the long term average annual extractions to the long term extraction limit.
- (5) Any reversal of a previous reduction under subclause (4):
  - (a) shall not exceed any previous reductions made under subclause (2), and
  - (b) shall first reverse any previous reductions relating to regulated river (general security—A class) and regulated river (general security—B class) access licences.
- (6) The assessment of the degree of any reduction required under subclause (2) or the degree of any reversal under subclause (4) shall be made using the same computer model used to carry out assessments under clause 29.
- (7) Following an amendment made under clause 28 (4) the Minister may amend clause 30 to include rules for managing floodplain harvesting extractions within the relevant long term extraction limit.

### **31 Limit to the volumes that may be taken under or assigned from regulated river (general security—A class) and regulated river (general security—B class) access**

## **licences**

The maximum volume that may be taken under, or assigned from, a regulated river (general security—A class) and regulated river (general security—B class) access licence in this water source during any water year, shall be equal to 1.0 megalitres multiplied by the number of unit shares specified in the share component of the access licence, or such lower amount that may result from clause 30, plus the volume of water allocations assigned to the access licence from another access licence during that water year.

## **Division 2 Available water determinations**

### **32 Available water determinations**

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) All available water determinations in this water source shall be expressed as:
  - (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 of share component for all regulated river (high security) access licences, regulated river (general security—A class) access licences, regulated river (general security—B class) access licences and supplementary water access licences.

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

- (1) The water supply system shall be managed so that available water determinations for domestic and stock access licences of 100% of share components can be maintained through a repeat of the worst period of low inflows into this water source (based on historical flow information held by the Department when this Plan commenced).
- (2) Sufficient volumes of water must be set aside from assured inflows into this water source and in reserves held in Pindari Dam and Glenlyon Dam water storages to provide for subclause (1).
- (3) The available water determination for domestic and stock access licences made for the commencement of each water year shall be 100% of share components whenever possible.
- (4) The sum of available water determinations made for domestic and stock access licences in any water year shall not exceed 100% of share components.
- (5) This Plan recognises that the water requirements of domestic and stock access licences may increase during the term of this Plan in accordance with clause 26.
- (6) The volumes of water set aside from assured inflows into this water source and in reserves held in Pindari Dam and Glenlyon Dam water storages shall be adjusted as

required over the course of this Plan, if necessary to do so to ensure subclause (1) is satisfied.

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

- (1) The water supply system shall be managed so that available water determinations for local water utility access licences of 100% of share components can be maintained through a repeat of the worst period of low inflows into this water source (based on historical flow information held by the Department when this Plan commenced).
- (2) Sufficient volumes of water must be set aside from assured inflows into this water source and in reserves held in Pindari Dam and Glenlyon Dam water storages, to provide for subclause (1).
- (3) The available water determination for local water utility access licences made for the commencement of each water year shall be 100% of share components whenever possible.
- (4) The sum of available water determinations made for local water utility access licences in any water year shall not exceed 100% of share components.
- (5) This Plan recognises that the water requirement of local water utility access licences may increase during the term of this Plan in accordance with clause 26 and section 66 of the Act.
- (6) The volumes of water set aside from assured inflows into this water source and in reserves held in Pindari Dam and Glenlyon Dam water storages shall be adjusted as required over the course of this Plan, if necessary to do so to ensure subclause (1) is satisfied.

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

- (1) The water supply system shall be managed so that available water determinations for regulated river (high security) access licences of 1 megalitre per unit share can be maintained through a repeat of the worst period of low inflows into this water source (based on historical flow information held by the Department when this Plan commenced).
- (2) Sufficient volumes of water must be set aside from assured inflows into this water source and in reserves held in Pindari Dam and Glenlyon Dam water storages to provide for subclause (1).
- (3) The available water determination for regulated river (high security) access licences made for the commencement of each water year shall be 1 megalitre per unit of share component, whenever possible.
- (4) If the available water determination made under subclause (3) is less than 1 megalitre

per unit of share component, then further assessments of available water resources shall be carried out and further available water determinations made until the sum of available water determinations for the water year is 1 megalitre per unit of share component.

- (5) The sum of available water determinations made for regulated river (high security) access licences in any water year shall not exceed 1 megalitre per unit of share component.
- (6) Available water determinations made for regulated river (high security) access licences must take into account:
  - (a) the environmental water provisions established by this Plan,
  - (b) requirements for domestic and stock rights,
  - (c) requirements for native title rights,
  - (d) requirements for local water utility access licences,
  - (e) requirements for domestic and stock access licences,
  - (f) volumes remaining in access licence water allocation accounts from previous available water determinations,
  - (g) water losses associated with the holding and delivery of water to meet the requirements specified in subclauses (a) to (f),
  - (h) an appropriate volume to meet water losses associated with the holding and delivery of water resulting from an available water determination, and
  - (i) any other relevant matters.

**36 Available water determinations for regulated river (general security—A class) access licences**

- (1) An available water determination is not to be made for regulated river (general security—A class) access licences in any water year until the sum of available water determinations for regulated river (high security) access licences for the water year is equivalent to 1 megalitre per unit of share component.
- (2) Providing subclause (1) has been satisfied, then assessments of available water shall be made at least monthly, and available water determinations made for regulated (general security—A class) access licences, if additional water can be provided to them.
- (3) The sum of available water determinations made for regulated river (general security—A class) access licences in any water year shall not exceed 1 megalitre per unit of share component.

- (4) The maximum volume of water allocation that may be credited to a regulated river (general security—A class) access licence from available water determinations during a water year shall be equal to 1 megalitre multiplied by the number of unit shares specified in the access licence share component minus the volume of water allocations carried over from the previous water year.
- (5) Available water determinations for regulated river (general security—A class) access licences shall be based on the volume available in Pindari Dam and Glenlyon Dam water storages after taking into account:
  - (a) the environmental water provisions established by this Plan,
  - (b) requirements for domestic and stock rights,
  - (c) requirements for native title rights,
  - (d) requirements for local water utility access licences,
  - (e) requirements for domestic and stock access licences,
  - (f) requirements for regulated river (high security) access licences,
  - (g) volumes remaining in access licence water allocation accounts from previous available water determinations,
  - (h) water losses associated with the holding and delivery of water to meet the requirements specified in subclauses (a) to (g),
  - (i) an appropriate volume to meet water losses associated with the holding and delivery of water resulting from an available water determination, and
  - (j) any other relevant matters.

**37 Available water determinations for regulated river (general security—B class) access licences**

- (1) An available water determination is not to be made for regulated river (general security—B class) access licences in any water year until the sum of available water determinations for regulated river (general security—A class) access licences for the water year is equivalent to 1 megalitre per unit of share component.
- (2) Providing subclause (1) has been satisfied, then assessments of available water shall be made at least monthly, and available water determinations made for regulated (general security—B class) access licences, if additional water can be provided to them.
- (3) Available water determinations for regulated river (general security—B class) access licences shall be based on the volume available in Pindari Dam and Glenlyon Dam water storages after taking into account:

- (a) the environmental water provisions established by this Plan,
- (b) requirements for domestic and stock rights,
- (c) requirements for native title rights,
- (d) requirements for local water utility access licences,
- (e) requirements for domestic and stock access licences,
- (f) requirements for regulated river (high security) access licences,
- (g) requirements for regulated river (general security—A class) access licences,
- (h) volumes remaining in access licence water allocation accounts from previous available water determinations,
- (i) water losses associated with the holding and delivery of water to meet the requirements specified in subclauses (a) to (h),
- (j) an appropriate volume to meet water losses associated with the holding and delivery of water resulting from an available water determination, and
- (k) any other relevant matters.

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

- (1) An available water determination for supplementary water access licences shall be made at the commencement of each water year and shall define the number of megalitres per unit of share component that can be taken in that year.
- (2) The available water determination made under subclause (1) shall not exceed 1 megalitre per unit of share component or such lower amount as results from the operation of clause 30 (2).

### **39 Available water determinations for floodplain harvesting**

Following an amendment made under clause 28 (5) the Minister may amend this clause to include rules for making available water determinations in relation to licences granted for the purpose of floodplain harvesting.

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

### **Division 1 General**

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

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

- (a) the environmental water rules established in Part 3 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 4 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 6 of this Plan.

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

### **41 Volume taken under access licences**

- (1) The water allocation taken under an access licence, other than a supplementary water access licence, shall be assessed as the greater of:
  - (a) the volume of water extracted by the approved water supply work/s nominated by the access licence, or
  - (b) the water ordered for extraction by the approved water supply work/s nominated by the access licence.
- (2) The water allocation taken under a supplementary water access licence shall be assessed as the volume of water extracted by the approved water supply work/s nominated by the access licence, in accordance with the conditions of the access licence and with announcements made by the Minister pursuant to the rules in this Plan.

### **42 Carrying over of water allocations and water allocation account limits**

- (1) The following rules shall apply to the management of water allocations in the water allocation accounts of domestic and stock access licences, local water utility access licences and regulated river (high security) access licences in this water source:
  - (a) the maximum volume that may be held in the water allocation account of domestic and stock or local water utility access licences at any time shall be equal to 100% of the access licence share component,
  - (b) the maximum volume that may be held in the water allocation account of regulated river (high security) access licences at any time shall be equal to 1 megalitre multiplied by the number of unit shares specified in the access licence share component, and
  - (c) any water allocations remaining in the water allocation account cannot be carried over from one water year to the next.
- (2) The following rules shall apply to the management of water allocations in the water allocation accounts of regulated river (general security—A class) access licences and regulated river (general security—B class) access licences:
  - (a) any water allocation remaining in the water allocation account may be carried



over from one water year to the next, and

(b) the maximum volume that may be held in the water allocation account at any time shall be equal to 1 megalitre per unit share specified in the access licence share component.

(3) The following rules shall apply to the management of water allocations in the water allocation accounts of supplementary water access licences:

(a) any water allocations remaining in the water allocation account of supplementary water access licences cannot be carried over from one water year to the next, and

(b) the maximum volume that may be held in the water allocation account at any time shall be equal to:

(i) 1 megalitre per unit share specified in the access licence share component,

(ii) plus any water allocations assigned from another access licence in that water year, and

(iii) minus any water allocations assigned to another access licence in that water year.

## **Division 3 Extraction conditions**

### **43 General priority of extractions**

Where the extraction component of an access licence does not specify the rate of extraction as a share of supply capability or a volume per unit time, the following priority of extractions shall apply whenever supply capability is insufficient to satisfy all orders for water in any section of this water source:

(a) water for domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for water, and

(b) then any remaining supply capability is to be shared between regulated river (general security—A class) and regulated river (general security—B class) access licences that have placed an order for water, in proportion to the share components specified in those access licences.

### **44 Numerical specification of extraction components**

(1) At any time during the term of this Plan, the Minister may, in accordance with the mandatory conditions on access licences set out in clause 55, amend the extraction components of access licences in this water source, or in any section of this water source.

(2) Any action under subclause (1) should be undertaken as follows:

- (a) the specified rate in the extraction component of each access licence should be a volume per unit time or a share of supply capability,
  - (b) the specified rate in the extraction component of each domestic and stock, local water utility and regulated river (high security) access licences should be sufficient to satisfy the maximum daily water needs, and
  - (c) after satisfying subclause (b), the remaining supply capability should be distributed among regulated river (general security—A class) access licences and regulated river (general security—B class) access licences in proportion to the share component of each access licence.
- (3) When action is taken under subclause (1), the Minister may also, in accordance with mandatory conditions on access licences in clause 55, amend the extraction components of access licences in other sections of this water source to exclude extractions in sections of this water source affected by the action taken under subclause (1).

**45 Taking of water under supplementary water access licences upstream of the Macintyre River and Dumaresq River junction**

- (1) The taking of water under the following supplementary water access licences shall be in accordance with the rules established in this clause:
- (a) those supplementary water access licences nominating water supply works upstream of the Macintyre River and Dumaresq River junction, excluding those supplementary water access licences specified in Schedule 2, and
  - (b) those supplementary water access licences specified in Schedule 3.
- (2) The taking of water under the supplementary water access licences referred to in subclause (1) shall only be permitted in accordance with announcements made by the Minister, in accordance with the rules in this Plan.
- (3) The maximum volume of water that may be taken under the supplementary water access licences referred to in subclause (1), during each period of time to which an announcement applies, may be expressed as a percentage of the supplementary water account limit specified on the water allocation account statement.
- (4) Taking of water under the supplementary water access licences referred to in subclause (1) should be managed, as far as possible, to evenly share access opportunity, subject to the rules in this clause.
- (5) Taking of water under the supplementary water access licences referred to in subclause (1) should only be permitted when there are uncontrolled flows at the point of extraction and the uncontrolled flow is in excess of that required to provide any required downstream replenishment flows specified in clause 58 and downstream

water orders released from Pindari Dam and Glenlyon Dam water storages.

- (6) Access to the uncontrolled flow volume in the Dumaresq River is to be shared between NSW and Queensland, and may be permitted to be taken under the supplementary water access licences referred to in subclause (1), during a supplementary water event.

**Note—**

Sharing uncontrolled flows during a supplementary water event on the Dumaresq River is provided for in the IGA.

- (7) For the purpose of subclause (5), the uncontrolled flow volume during a supplementary water event is the volume of inflows to this water source which occurs between the time that inflows increased to a level sufficient to produce uncontrolled flows in this water source and the time they then decreased to a level which was no longer sufficient to produce uncontrolled flows in this water source, minus the volume of inflows that is required to provide sufficient flow to:
- (a) meet the environmental provisions of this Plan,
  - (b) satisfy downstream domestic and stock rights and native title rights,
  - (c) satisfy the water orders placed by regulated river (general security—A class) and regulated river (general security—B class) access licences and higher priority access licences, and
  - (d) provide any required replenishment flows specified in clause 58.
- (8) The maximum volume of water that may be taken during each period of time to which an announcement under subclause (2) applies in the section of this water source from Pindari Dam water storage to the Macintyre River and Dumaresq River junction may not exceed the volume of flow occurring between the supplementary water event start flow and supplementary water event finish flow as specified below:

<b>Season</b>	<b>Supplementary water event start flow (ML/day)</b>	<b>Supplementary water event finish flow (ML/day)</b>	<b>As measured at</b>
<b>Summer</b>	500	150	Ashford
1 Sep–31 Mar	1000	250	Holdfast
<b>Winter</b>	100	50	Ashford
1 Apr–31 Aug	150	50	Holdfast

plus the volume of water required to:

- (i) meet the environmental provisions of this Plan,

- (ii) satisfy downstream domestic and stock rights and native title rights,
  - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
  - (iv) provide any required replenishment flows specified in clause 58, and
  - (v) satisfy Queensland share for water harvesting licences.
- (9) The maximum volume of water that may be taken during each period of time to which an announcement under subclause (2) applies in the section of this water source from the Dumaresq River and Pike Creek junction to the Macintyre River and Dumaresq River junction may not exceed the volume of flow occurring between the supplementary water event start flow and supplementary water event finish flow is specified below:

<b>Season</b>	<b>Supplementary water event start flow (ML/day)</b>	<b>Supplementary water event finish flow (ML/day)</b>	<b>As measured at</b>
<b>Summer</b>			
1 Sep-31 Mar	750	250	Glenarbon
<b>Winter</b>			
1 Apr-31 Aug	150	50	Glenarbon

plus the volume of water required to:

- (i) meet the environmental provisions of this Plan,
  - (ii) satisfy downstream domestic and stock rights and native title rights,
  - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
  - (iv) provide any required replenishment flows specified in clause 58, and
  - (v) satisfy Queensland share for water harvesting licences.
- (10) For those supplementary water access licences specified in Schedule 3, the maximum volume of water that may be taken during each period of time to which an announcement under subclause (2) applies must not exceed the provisions provided under:
- (a) subclause (8) where the uncontrolled flow originates from the Macintyre River, and
  - (b) subclause (9) where the uncontrolled flow originates from the Dumaresq River.
- (11) The taking of water pursuant to subclauses (8), (9) and (10) is also subject to the

following provisions:

- (a) water taken may only be used for direct irrigation and is not to be pumped into on-farm storages, and
- (b) a maximum extraction rate of 6 ML/day per diversion work pump at the commencement of this Plan, is to apply.

(12) Taking of water under supplementary water access licences nominating works on the Macintyre River shall not be permitted, or shall be restricted, when this is required to ensure the passage to the Barwon-Darling of locally generated uncontrolled flows needed to meet the requirements of the Interim Unregulated Flow Management Plan for the North West.

**Note—**

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

**Note—**

Any restriction of supplementary access in NSW as a result of the application of the IUFMP does not impact on QLDs ability to extract in accordance with the IGA.

(13) The requirements of the Interim Unregulated Flow Management Plan for the North West are:

- (a) a flow of 14,000 ML/day in the Darling River at Brewarrina for 5 consecutive days, or 10,000 ML/day in the Darling River at Bourke for 5 consecutive days, during the period September to February inclusive, providing two such flow events have not already occurred during that period in that water year.

**Note—**

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

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

**Note—**

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

(c) a flow of:

- (i) 150 ML/day in the Darling River at Wilcannia,
- (ii) 280 ML/day in the Darling River at Louth,
- (iii) 390 ML/day in the Darling River at Bourke,

(iv) 550 ML/day in the Darling River at Brewarrina, and

(v) 700 ML/day in the Barwon River at Walgett.

**Note—**

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

(14) The Minister may alter or replace the rule set out in subclause (12) or the requirements set out under subclause (13) should the Interim Unregulated Flow Management Plan for the North West be altered, or replaced by new management arrangements, providing that such action:

- (a) only affects the taking of water under supplementary water access licences,
- (b) only relates to the taking of water under supplementary water access licences and does not jeopardise critical environmental needs or the supply of water to basic rights holders, domestic and stock access licence holders and local water utility access licence holders in the Barwon Darling, and
- (c) in the Minister's opinion, does not substantially alter the long-term average volume of water that can be taken under supplementary water access licences in the Border Rivers Regulated River Water Source.

**46 Taking of water under supplementary water access licences downstream of the Macintyre River and Dumaresq River junction**

(1) The taking of water under the following supplementary water access licences shall be in accordance with the rules established in this clause:

- (a) those supplementary water access licences nominating water supply works downstream of the Macintyre River and Dumaresq River junction, excluding those supplementary water access licences specified in Schedule 3, and
- (b) those supplementary water access licences specified in Schedule 2.

(2) The taking of water under supplementary water access licences shall only be permitted in accordance with announcements made by the Minister, in accordance with the rules in this Plan.

(3) The maximum volume of water that may be taken under the supplementary water access licences referred to in subclause (1) during each period of time to which an announcement applies may be expressed as a percentage of the supplementary water account limit specified on the water allocation account statement.

(4) Taking of water under the supplementary water access licences referred to in subclause (1) should be managed, as far as possible, to evenly share access opportunity subject to the rules in this clause.

- (5) Taking of water under the supplementary water access licences referred to in subclause (1) should only be permitted when there are uncontrolled flows at the point of extraction and the uncontrolled flow is in excess of that required to provide any required downstream replenishment flows specified in clause 58 and downstream water orders released from Pindari Dam and Glenlyon Dam water storages.
- (6) When all uncontrolled flows are arising from inflows to this water source upstream of Goondiwindi, the taking of water under the supplementary water access licences referred to in subclause (1):
- (a) should not commence until the flow volume entering, or expected to enter this water source over a two day period at Goondiwindi is a minimum of 10,000 ML, plus the volume of water required to:
    - (i) meet the environmental provisions of this Plan,
    - (ii) satisfy downstream domestic and stock rights and native title rights,
    - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
    - (iv) provide any required replenishment flows specified in clause 58, and
    - (v) satisfy Queensland share for water harvesting licences.

**Note—**

The two day flow at Goondiwindi is the 24 hour flow at Goondiwindi on the day of the assessment plus the flow for the previous 24 hours in the Macintyre Brook at Booba Sands plus the Dumaresq River at Glenarbron Weir plus the Macintyre River at Holdfast.

- (b) should cease when the flow volume entering this water source over a two day period at Goondiwindi falls below 3,650 ML, plus the volume of water required to:
  - (i) meet the environmental provisions of this Plan,
  - (ii) satisfy downstream domestic and stock rights and native title rights,
  - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
  - (iv) provide any required replenishment flows specified in clause 58, and
  - (v) satisfy Queensland share for water harvesting licences.

**Note—**

The IGA provides for access to supplementary flow event by each state downstream of the point of inflow.

- (7) When all uncontrolled flows are arising from inflows to this water source downstream of Goondiwindi, the taking of water under the supplementary water access licences

referred to in subclause (1):

- (a) should not commence until the flow volume entering, or expected to enter the system over a two day period is a minimum of 2,000 ML, plus the volume of water required to:
  - (i) meet the environmental provisions of this Plan,
  - (ii) satisfy downstream domestic and stock rights and native title rights,
  - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
  - (iv) provide any required replenishment flows specified in clause 58,
  - (v) satisfy Queensland share for water harvesting licences, and
- (b) should cease when the flow volume entering the system falls below 1,550ML over a two day period, plus the volume of water required to:
  - (i) meet the environmental provisions of this Plan,
  - (ii) satisfy downstream domestic and stock rights and native title rights,
  - (iii) satisfy the total NSW and Queensland water orders placed by access licences, including associated losses,
  - (iv) provide any required replenishment flows specified in clause 58, and
  - (v) satisfy Queensland share for water harvesting licences.

(8) Taking of water under the supplementary water access licences referred to in subclause (1) which nominate a work on the Macintyre River shall not be permitted, or shall be restricted, when this is required to ensure the passage to the Barwon-Darling of locally generated uncontrolled flows needed to meet the requirements of the Interim Unregulated Flow Management Plan for the North West.

**Note—**

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

**Note—**

Any restriction of supplementary water access licences in NSW as a result of the application of the Interim Unregulated Flow Management Plan for the North West does not impact on QLDs ability to extract in accordance with the IGA.

(9) The requirements of the Interim Unregulated Flow Management Plan for the North West are:

- (a) a flow of 14,000 ML/day in the Barwon River at Brewarrina for 5 consecutive days,



or 10,000 ML/day in the Darling River at Bourke for 5 consecutive days, during the period September to February inclusive, providing two such flow events have not already occurred during that period in that water year.

**Note—**

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

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

**Note—**

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

- (c) a flow of:

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

**Note—**

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

- (10) The Minister may alter or replace the rule set out in subclause (8), or the requirements set out under subclause (9), should the Interim Unregulated Flow Management Plan for the North West be altered, or replaced by new management arrangements, providing that such action:

- (a) only affects the taking of water under the supplementary water access licences referred to in subclause (1),
- (b) only relates to the taking of water under the supplementary water access licences referred to in subclause (1) and does not jeopardise critical environmental needs or the supply of water to basic rights holders, domestic and stock access licence holders and local water utility access licence holders in the Barwon Darling, and
- (c) in the Minister's opinion, does not substantially alter the long-term average volume of water that can be taken under supplementary water access licences in this water source.

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

### **47 Access licence dealing rules**

- (1) This Part is made in accordance with section 20 (1) (d) of the Act.
- (2) Applications for a dealing can only be made in accordance with the access licence dealing rules established by this Plan and any access licence dealing principles order which is in force under section 71Z of the Act.

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

- (1) This clause relates to dealings under sections 71Q, 71S, 71T and 71W of the Act.
- (2) Any dealing involving the assignment of a supplementary water access licence share component under section 71Q of the Act is prohibited if it would increase the total share components of supplementary water access licences nominating water supply works upstream of the Macintyre River and Dumaresq River junction, above those that existed at the commencement of this Plan.
- (3) Any dealing involving a supplementary water access licence nominating a water supply work under section 71W of the Act is prohibited if it would increase the total share components of supplementary water access licences nominating water supply works upstream of the Macintyre River and Dumaresq River junction, above those that existed at the commencement of this Plan.
- (4) The assignment of water allocations from a supplementary water access licence water allocation account to an access licence of any other access licence category under section 71T of the Act is prohibited.
- (5) The assignment of water allocations to a supplementary water access licence water allocation account from an access licence of any other access licence category under section 71T of the Act is prohibited.

### **49 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 effected, if permitted, the new licence will have to nominate specified works (by dealing under section 71W of the Act) in the receiving water source before extraction can commence.

- (2) An access licences in another water source may be issued, following the cancellation of an access licence in this water source, only if:
  - (a) the access licence dealing rules in the receiving water source permit such a dealing,

- (b) a conversion factor established by the Minister and published in an Order made under section 71Z of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source has been applied, and
  - (c) the other water source is within the Border Rivers Water Management Area.
- (3) An access licence in this water source may be issued, following the cancellation of an access licence in another water source, only if:
- (a) the access licence dealing rules in the other water source permit such a dealing,
  - (b) a conversion factor established by the Minister and published in an Order made under section 71Z of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source has been applied, and
  - (c) the other water source is within the Border Rivers Water Management Area.

**Note—**

The access licence dealing principles gazetted on 1 July 2004 prohibit a change of water source dealing, where the movement is from an unregulated river water source to a regulated river water source.

**50 Rules for conversion of access licence category**

- (1) This clause relates to dealings under section 710 of the Act.
- (2) The conversion of an access licence of one category to an access licence of another category is prohibited, except as provided for under this clause.
- (3) On application of the access licence holder, the Minister may cancel a regulated river (general security—A class) access licence or a regulated river (general security—B class) access licence, and issue a regulated river (high security) access licence, subject to:
  - (a) the application of a conversion factor established by the Minister and published in an Order made under section 71Z of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source, and
  - (b) the number of megalitres of water in the regulated river (general security—A class) access licence water allocation account or the regulated river (general security—B class) access licence water allocation account being equal to or greater than the number of unit shares in its share component.

**Note—**

The volume of water in the regulated river (general security—A class) or (general security—B class) access licence water allocation account which is in excess of the number of unit shares in the share

component of the new regulated river (high security) access licence will not be credited to the new regulated river (high security) access licence account.

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

**Note—**

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

- (5) Conversion of a regulated river (general security—B class) access licence to a regulated river (general security—A class) access licence is prohibited.
- (6) On the application of the access licence holder, the Minister may cancel a regulated river (general security—A class) access licence and issue a regulated river (general security—B class) access licence, subject to:
- (a) the application of a conversion factor established by the Minister and published in an Order made under section 71Z of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source, and
  - (b) the total number of unit shares in the regulated river (general security—B class) access licence share components not increasing above the total number of unit shares in regulated river (general security—B class) access licence share components at the time of commencement of Part 2 of Chapter 3 of the Act.

**Note—**

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

- (7) On application of the access licence holder, the Minister may cancel a domestic and stock access licence and issue a domestic and stock (domestic only) access licence and a domestic and stock (stock only) access licence, subject to:
- (a) the sum of the share component volumes of the two new access licences being equal to the share component volume of the cancelled access licence, and

(b) the share component volume of the new domestic and stock (domestic only) access licence being able to meet the needs of domestic consumption as defined in section 52 of the Act.

(8) On application of the access licence holder, the Minister may cancel a domestic and stock (stock only) access licence and issue a regulated river (high security) access licence, provided that the number of unit shares in the regulated river (high security) access licence share component is equal to the number of megalitres per year in the share component of the cancelled domestic and stock (stock only) access licence.

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

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

#### **Note—**

The use of NSW or Queensland licences in the other State may be permitted under clause 54.

### **52 Rules for water allocation assignment 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) Water allocations from the water allocation accounts of access licences in this water source may not be assigned to the water allocation accounts of access licences in other water sources.
- (3) Water allocations from the water allocation accounts of access licences in other water sources may not be assigned to the water allocation accounts of access licences in this water source.

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

- (1) This clause relates to dealings under section 71V of the Act.
- (2) Water allocations from equivalent access licences in Queensland may be assigned to the water allocation accounts of access licences in this water source, subject to account limits established under Part 9 Division 2 of this Plan and subject to administrative and accounting arrangements agreed to by the States.
- (3) Water allocations from the water allocation accounts of access licences in this water source may be assigned to water allocations of equivalent access licences in Queensland, subject to administrative and accounting arrangements agreed to by the States.

#### **54 Rules for nominating interstate water supply works**

- (1) This clause relates to dealings under section 71W of the Act.
- (2) An access licence in this water source may nominate water supply works in Queensland that extract water from rivers that are regulated by Glenlyon Dam and Coolmunda Dam subject to administrative and accounting arrangements agreed to by the States.
- (3) Water supply works nominated on an access licence in this water source may also be nominated on a Queensland water entitlement, provided the Queensland water entitlement permits the extraction of water from a river that is regulated by Glenlyon Dam and Coolmunda Dam and subject to administrative and accounting arrangements agreed to by the States.

### **Part 11 Mandatory conditions**

#### **55 Mandatory conditions on access licences**

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

**Note—**

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

- (2) All access licences in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
  - (a) water cannot be taken in excess of the volume of water allocated to, or assigned to, or re-credited to, the respective water allocation account,
  - (b) the requirement that extraction under the access licence shall be subject to the water allocation account management rules established in Part 9 of this Plan,
  - (c) the requirement that water may only be taken under the licence by a water supply work listed on the approval nominated on the access licence, and
  - (d) any other conditions required to implement the provisions of this Plan.
- (3) All domestic and stock access licences, local water utility access licences, regulated river (high security) access licences, regulated river (general security—A class) access licences and regulated river (general security—B class) access licences shall have mandatory conditions that only allow the taking of water if it has been ordered in accordance with procedures established by the Minister.
- (4) All regulated river (general security—A class) access licences shall have mandatory conditions to give effect to the provisions in clause 31 of this Plan.
- (5) All regulated river (general security—B class) access licences shall have mandatory

conditions to give effect to the provisions in clause 31 of this Plan.

- (6) All supplementary water access licences shall have mandatory conditions that only allow the taking of water in accordance with announcements, as specified in clauses 45 and 46, and after satisfying any procedures established by the Minister.
- (7) All domestic and stock access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption or stock watering as defined in section 52 of the Act.
- (8) All domestic and stock (domestic only) access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption as defined in section 52 of the Act.
- (9) All domestic and stock (stock only) access licences shall have mandatory conditions that only allow the taking of water for the purpose of stock watering as defined in section 52 of the Act.
- (10) All local water utility access licences shall have mandatory conditions that only allow the taking of water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act.
- (11) All categories of access licence with a subcategory (Aboriginal Cultural) shall have mandatory conditions that only allow the taking of water by Aboriginal persons or Aboriginal communities for personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes.
- (12) All access licences that nominate a water supply work/s in Queensland shall have a mandatory condition that requires water extraction, property water management infrastructure and cropping details to be provided on request in the form and in accordance with any procedures established by the Minister.
- (13) The Minister may amend this Plan to vary the mandatory conditions that must be imposed on access licences, or to require additional mandatory conditions to be imposed.

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

- (1) All approvals for water supply works in this water source shall have mandatory conditions to give effect to the following:
  - (a) flow measurement devices shall be installed and maintained on all works used for extraction of water under an access licence and shall be of a type, and shall be maintained in a manner, which is acceptable to the Minister,

- (b) water extraction, property water management infrastructure and cropping details shall be provided on request, in the form and in accordance with any procedures established by the Minister, and
  - (c) the taking of water may only occur in accordance with the conditions applying to the access licence from whose water allocation account the taking of water will be debited.
- (2) Subclause (1) does not apply to approvals for water supply works held by State Water, provided such an approval is not nominated by an access licence.
  - (3) All approvals for water supply works upstream of the junction of the Macintyre and Dumaresq Rivers that are nominated by a supplementary water access licence, excluding those supplementary water access licences specified in Schedule 2, shall have a mandatory condition to give effect to clause 45 (11).
  - (4) All approvals for water supply works nominated by a supplementary water access licence specified in Schedule 3 shall have a mandatory condition to give effect to clause 45 (11).
  - (5) All approvals for water supply works in this water source shall have any other mandatory conditions required to implement the provisions of this Plan.

## **Part 12 System operation rules**

### **57 System operation rules**

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

### **58 Replenishment Flows**

- (1) The following replenishment flows shall be provided for domestic and stock rights requirements, if required:
  - (a) up to 10,000 ML/yr to the Boomi River.
- (2) Sufficient volumes of water must be set aside from assured inflows into this water source and reserves held in Pindari Dam and Glenlyon Dam water storages to provide for subclause (1).

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

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

- (a) inundation of private land or interference with access,



- (b) the effects of inundation on the floodplain and associated wetlands,
- (c) the transmission losses expected to occur, and
- (d) capacities of water management structures controlled by the Minister.

#### **60 Rates of change to storage releases**

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

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

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

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

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

- (1) The operation of Pindari Dam and Glenlyon Dam during times of flood and spilling of water is to be undertaken in a manner that maintains the safety of dam infrastructure.
- (2) Providing it is consistent with subclause (1), operation of Pindari Dam and Glenlyon Dam:
  - (a) should leave the storage at full supply level at the completion of the flood or spilling of water,
  - (b) during floods should ensure the general rate of increase of outflow does not exceed the rate of increase of inflow,
  - (c) should aim to lessen downstream flood damage where possible, and
  - (d) may involve temporary storage of water above the normal maximum available storage level to reduce flood effects, and management of the rate of release of such water to avoid aggravating downstream flood damage.

## Part 13 Monitoring and reporting

### 63 Monitoring

The monitoring of the performance indicators specified in clause 10 of this Plan may be undertaken by the Minister.

**Note—**

Any review of this Plan should take into account the provisions of the IGA, the [New South Wales—Queensland Border Rivers Act 1947](#) and the Border Rivers Agreement 1947, where relevant.

The IGA provides for the following in relation to measurement, monitoring and recording:

- neither State will cease monitoring/measuring of parameters without the agreement of the other State.
- either State may negotiate additional parameters at any time
- the States will develop an integrated environmental monitoring program for the shared streams of the Border Rivers catchment
- the States will adequately resource the functions of the collection and management of data required to implement this agreement

## Part 14 Other amendments to this Plan

### 64 Other amendments to this Plan

- (1) This Plan may be amended in accordance with any changes to, or arising out of, the IGA, the [New South Wales—Queensland Border Rivers Act 1947](#) or the Border Rivers Agreement 1947, including any changes to the volume of water distributed to New South Wales.
- (2) Any amendment to this Plan which may impact on the IGA must be done in concert with Queensland.

## Dictionary

**Border Rivers Agreement 1947** means the agreement ratified by the [New South Wales—Queensland Border Rivers Act 1947](#) and includes the amending agreements.

**direct irrigation** means water pumped directly onto crop on the recession of a flow event.

**unit share** is equivalent to 1 ML of the [Water Act 1912](#) entitlement.

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

## Schedule 2 Supplementary water access licences nominating water supply works upstream of the Macintyre River and Dumaresq River junction that are not subject to the rules in clause 45

On commencement of this Plan those access licences that arose from the [Water Act 1912](#) licences extracting water upstream of the Macintyre River and Dumaresq River junction that are specified

below, are not subject to the rules established in clause 45 of this Plan but are subject to the rules established in clause 46 of this Plan:

90SL2142

90SA11584

90SL39147

90SL14581

90SL100489

90SL100042

### **Schedule 3 Supplementary water access licences nominating water supply works downstream of the Macintyre River and Dumaresq River junction that are subject to the rules in clause 45**

On commencement of this Plan those access licences that arose from the [Water Act 1912](#) licences extracting water downstream of the Macintyre River and Dumaresq River junction that are specified below are not subject to the rules in clause 46 of this Plan but are subject to the rules established in clause 45 of this Plan:

90SL33594

90SL30199

90SL38932

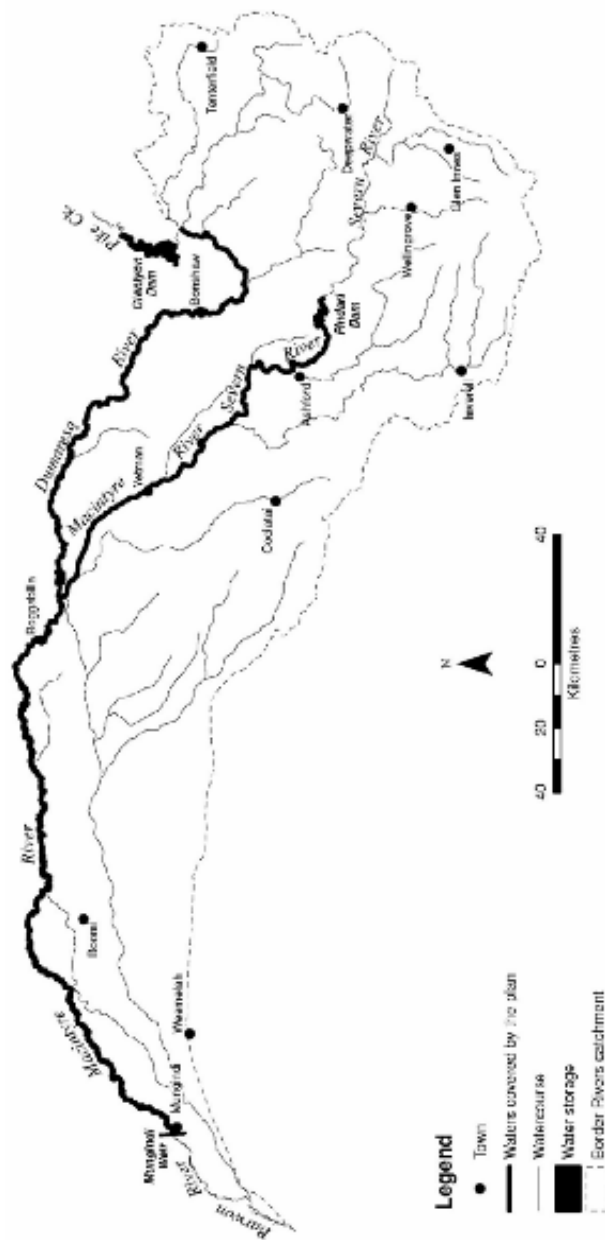
90SL100337

90SL100655

90SL48373

90SL51712

## Appendix 1 Border Rivers Regulated River Water Source



## Appendix 2 Performance indicators

### Performance indicators for the Water Sharing Plan for the NSW Border Rivers Regulated River Water Source

Performance indicator	Related objective	As measured by:	Commentary
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(a) Change in ecological condition of the water source and dependent ecosystems.	clause 10 (a) clause 10 (c)	<ul style="list-style-type: none"> <li>• Monitoring of ecological response to changed flow regimes, by IMEF (each water source will have specific hypotheses from the set developed under IMEF).</li> <li>• Other relevant studies as may be undertaken in specific water sources.</li> </ul>	<ul style="list-style-type: none"> <li>• IMEF tests a number of hypotheses to indicate how elements of river ecology respond to different aspects of the flow regime (including EFRs, irrigation flows, and floods and wetland connectivity).</li> </ul>
(b) Change in low flow regime	clause 10 (a) clause 10 (c)	<ul style="list-style-type: none"> <li>• Number of days per water year where flow is below natural 95<sup>th</sup> and 80<sup>th</sup> percentiles.</li> <li>• Average and maximum number of days per water year of continuous periods of flow which is below natural 95<sup>th</sup> and 80<sup>th</sup> percentiles.</li> <li>• Measurement at end of system and specified key sampling sites.</li> </ul>	<ul style="list-style-type: none"> <li>• Government’s River Flow Objectives (RFOs) 1 and 6.</li> <li>• Analysis would need to incorporate reference to seasonal indicators.</li> <li>• Long term modelling will reflect the influence of climate on flows.</li> <li>• Appropriate data relating to flow distribution, such as summer/ winter cropping balance, agronomical practices, on farm storage development, management and operation of environmental releases etc.</li> <li>• Baseline audit should be the modelled WSP scenario (rather than natural flows).</li> </ul>
(c) Change in moderate to high flow regime	clause 10 (a) clause 10 (c)	<ul style="list-style-type: none"> <li>• Number of days per water year where flow is above natural 30<sup>th</sup> 15<sup>th</sup> and 5<sup>th</sup> percentiles.</li> <li>• Average and maximum number of days per water year of continuous periods of flow which is above natural 30<sup>th</sup>, 15<sup>th</sup> and 5<sup>th</sup> percentiles.</li> <li>• Measurement at end of system and other key sampling sites in this water source.</li> </ul>	<ul style="list-style-type: none"> <li>• RFO 3</li> </ul>

(d) Change in water quality	clause 10 (d)	<ul style="list-style-type: none"> <li>• Assessment and statistical analysis of key water quality parameters, and relationship to flow.</li> </ul>	<ul style="list-style-type: none"> <li>• The rules of this Plan will contribute to a long term change in water quality by affecting flow regimes and flow management to address issues such as algal management.</li> <li>• There are many non-water sharing plan related factors that affect water quality (eg land-based activities and thermal pollution).</li> </ul>
(e) Extent to which basic landholder rights requirements have been met	clause 10 (f)	<ul style="list-style-type: none"> <li>• Basic rights allowances made according to plan provisions/ implementation program requirements.</li> <li>• Flows adequate to meet basic rights requirements (taking into consideration allowances for delivery).</li> </ul>	<ul style="list-style-type: none"> <li>• Basic rights usage figures in water sharing plans are estimated volumes (not actual use).</li> <li>• Basic rights represents a very small proportion of water extraction in regulated systems.</li> </ul>
(f) Extent to which local water utility and major utility requirements (where major utilities are involved in urban water provision) have been met.	clause 10 (b)	<ul style="list-style-type: none"> <li>• Percentage of years that reserves were adequate to satisfy urban water requirements.</li> </ul>	
(g) Change in economic benefits derived from water extraction and use	clause 10 (e)	<ul style="list-style-type: none"> <li>• Change in regional gross margins versus annual total extractions based on year 1 benchmarks (as represented in IQQM).</li> <li>• Movement of water to higher value crops as measured by increases in area and/or water extracted by these enterprises versus lower value uses.</li> <li>• Change in unit price of water transferred.</li> <li>• Annual total volume of access licence transferred (ML) in each water year.</li> </ul>	<ul style="list-style-type: none"> <li>• There are many factors affecting economic status of a region, for example commodity prices, other sources of water (eg groundwater).</li> <li>• The PI is intended to isolate as much as possible the effects of water availability and price on the gross margin returns at a regional level.</li> <li>• Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of provisions of this Plan.</li> </ul>

- |   |                      |   |  |
|---|----------------------|---|--|
| <p>(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.</p> | <p>clause 10 (h)</p> | <ul style="list-style-type: none"> <li>• Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people.</li> <li>• A study shall be prepared by 2011 that realistically engages with the local Aboriginal communities to determine what values they place on the Border Rivers environment and the river features that are of significance to them.</li> </ul> | <ul style="list-style-type: none"> <li>• The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of 5 years there should be relevant information collected for each water source, as a minimum requirement.</li> </ul> |
| <p>(i) Extent to which native title rights have been met.</p>   | <p>clause 11 (h)</p> | <ul style="list-style-type: none"> <li>• Native title rights allowances made according to plan provisions/implementation program requirements.</li> </ul>   |  |

## Appendix 3 Inter-governmental Agreement Statement of Principles

### STATEMENT OF PRINCIPLES

#### FOR AN INTERGOVERNMENTAL AGREEMENT BETWEEN NEW SOUTH WALES AND QUEENSLAND FOR WATER MANAGEMENT IN THE BORDER RIVERS

The Border Catchments Ministerial Forum agrees that an Intergovernmental Agreement based on the following principles will ensure that the Border Rivers catchment will be managed sustainably for its environmental, social, cultural and economic values.

#### 1. Whole-of-Catchment Approach

The states will manage all aspects of water and related natural resource activities on a water catchment basis so as to balance water resource use and protection of ecosystems.

#### 2. State Cooperation

The states will recognise the Border Rivers as a special case and customise their individual policies to meet its unique requirements.

The states' agencies will ensure that policies and legislation pertaining to the Border Rivers are not in conflict.

The management of the Border Rivers will take into account each state's commitment to the Murray-Darling Basin Agreement.

#### 3. Community Support

Proposals to put to the wider community will be developed by government in partnership with stakeholders.

The states will engage the community to seek community understanding, support and ownership of the Agreement.

- 4. Environmental Protection** Agreed-upon environmental outcomes will enhance and sustain identified environmental values. These outcomes will be protected against impact from increases in water use.
- The states will develop coordinated joint access management rules for the common streams and will ensure rules on other streams will support the agreement outcomes.
- 5. Water Sharing and Access** Water sharing arrangements between the states will recognise the current water sharing arrangements. Access to water entitlements will be in accordance with the states' planning and legislative frameworks.
- Management of access by water users in one state will not impact on the allowed access by water users in the other state.
- 6. Accounting** The states will implement transparent and freely available accounting procedures, consistent with trading rules.
- All current and future water entitlements within the entire catchment will be accounted for on a volumetric basis to meet the agreed environmental and water use targets.
- 7. Interstate Trading** The states will establish systems for interstate trading of water to allow water to move to its highest value use, while ensuring minimal impact on other users and on the environment.
- 8. Monitoring** The states will establish an integrated cost-effective monitoring and measurement program to support the ongoing assessment of the effectiveness of the Agreement.
- 9. Management Review** An adaptive and transparent approach will be used for extraction and environmental flow management, and this will include regular formal reviews.
- Management responses will be tailored to the issues identified by the monitoring program.
- 10. Auditing and Reporting** Data, analysis and policy information will be openly exchanged between the states and the community.
- All usage and compliance with management rules will be subject to regular reporting and auditing.