

Water Sharing Plan for the Peel Regulated River Water Source 2010

[2010-134]



New South Wales

Status Information

Currency of version

Repealed version for 1 July 2020 to 30 June 2022 (accessed 26 November 2024 at 12:40)

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

Provisions in force

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

Notes—

- **Previously named**
Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010
- **Editorial note**
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.
- **Repeal**
This Plan was repealed by the [Water Sharing Plan for the Peel Regulated River Water Source Order 2022](#), cl 3 with effect from 1.7.2022.

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 Peel Regulated River Water Source 2010



New South Wales

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Water Sharing Plan for the Peel Regulated River Water Source 2010



New South Wales

Part 1 Introduction

1 Name of this Plan

This Plan is the *Water Sharing Plan for the Peel Regulated River Water Source 2010* (**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 is a plan for water sharing and generally deals with the matters set out in sections 20 and 21 of the Act, as well as other sections of the Act.

Note—

Where a provision of this Plan is made under another section of the Act, the section is referred to in notes to this Plan.

3 Commencement

This Plan commences on 1 July 2010.

Notes—

- 1** In accordance with section 43 of the Act this Plan will have effect for 10 years from 1 July 2010. In accordance with section 43A of the Act, the Minister may extend this Plan for a further period of 10 years after it is due to expire.
- 2** Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for the Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. The *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* has been amended, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Peel surface water area.
- 3** **Basin Plan** is defined in the Dictionary.

4 Application of this Plan

- (1) This Plan applies to the Peel Regulated River Water Source within the Namoi Water Management Area (***the water source***).

Note—

The Namoi Water Management Area was constituted by Ministerial order made under section 11 of the [Water Management Act 2000](#) published in the NSW Government Gazette number 180 on 23 November 2001 at page 9389.

- (2) The water in the water source consists of the water between the banks of the Peel River, from Chaffey Dam water storage, downstream to the intersection of the Peel River and Namoi River that have been declared by the Minister to be a regulated river.

Note—

The *Regulated River Order for the Peel Valley Regulated Rivers 2018* was made by the Minister under clause 54 of Schedule 12 of the Act, and amended by item [89] of Schedule 1 of the [Water Management Amendment Act 2018](#).

5-7 (Repealed)

8 Interpretation

- (1) Words and expressions that are defined in the Dictionary in Schedule 1 of this Plan have the meaning set out in that Schedule.
- (2) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the Regulations have the same meaning in this Plan.
- (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

Notes—

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 This Part describes broad objectives, which are the long term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in the Part are specific outcomes that can be achieved by the strategies in this Plan and can be directly measured so that success or failure to achieve the objective can be quantified.

8A Acknowledgement

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within the Namoi Water Management Area.

9 Vision statement

The vision for this Plan is to provide for the following—

- (a) the health and enhancement of the water source and its water-dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (d) social and cultural benefits to urban and rural communities that depend on surface water.

10 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect, and contribute to the enhancement of, the ecological condition of the water source and its water dependent ecosystems over the term of this Plan.

Note—

The ecological condition of the water source will be assessed by reference to the condition of high ecological value aquatic ecosystems, target species, communities, populations and key ecosystem functions as defined in the MER plan for the water source. Water-dependent ecosystems in the water source include instream, riparian and floodplain ecosystems.

- (2) The targeted environmental objectives of this Plan are as follows—

- (a) to protect, and contribute to the enhancement of, the following over the term of this Plan—
 - (i) the recorded distribution or extent, and the population structure, of target ecological populations.

Notes—

1 *Target ecological populations* is defined in the Dictionary.

2 Target ecological populations in the water source may include known or predicted populations of—

- (a) native fish including golden perch, eel-tailed catfish and Murray cod,
- (b) native vegetation including river red gum woodland,
- (c) high diversity hotspots and significant habitat for native fish, frogs and native vegetation.

3 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

- (ii) the longitudinal and lateral connectivity within and between water sources to support target ecological processes,

Notes—

1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means flows between the river and its anabranches, riparian zones, wetlands and floodplains.

2 Target ecological processes in the water source include fish movement across significant barriers, as identified by NSW Department of Primary Industries Fisheries and described in the MER plan for the water source.

3 Connectivity may be within the water source, and between the water source and other water sources.

(iii) water quality within target ranges for the water source to support water-dependent ecosystems and ecosystem functions,

Note—

Water quality target ranges for the water source are defined in the Water Quality Management Plan for the Namoi surface Water Resource Plan Area SW14 and the NSW State Water Quality Assessment and Monitoring Plan.

(b) to support environmental watering in the water source to contribute to maintaining or enhancing ecological condition in streams, riparian zones, dependent wetlands and connected water sources.

Note—

Part 6 outlines the provisions for environmental water allowances (**EWAs**). These EWAs are managed by the NSW Environmental Water Manager.

(3) The strategies for reaching the targeted environmental objectives of this Plan are as follows—

(a) establish and maintain compliance with a long-term average annual extraction limit and a long-term average sustainable diversion limit,

Note—

Part 7 of this Plan sets out the provisions for maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit.

(b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,

Notes—

1 **Flow regimes** and **natural flow regimes** are defined in the Dictionary.

2 Part 6 contains rules that partially mitigate the alterations to low flows in the natural flow regimes of the water source by ensuring a minimum daily release of 3 ML/day.

(c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources,

Note—

The provisions in Part 6 contribute to maintaining the hydrological connectivity within the water source and with downstream water sources.

(d) reserve a share of water to support environmental watering events in streams, riparian zones and wetlands connected to the water sources,

Note—

The provisions in Part 6 ensure that environmental water allowances are maintained.

(e) contribute to the management of critical environmental and water quality events.

Note—

The provisions in Part 6 ensure that an environmental water allowance is maintained.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted environmental objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted environmental objectives in subclause (2) are the changes or trends in ecological condition during the term of this Plan, as assessed using one or more of the following—
- (a) the recorded range, extent or condition of target ecological populations,
 - (b) measurements of fish movements through priority fish passage areas,
 - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
 - (d) the magnitude, frequency, timing and water quality of environmental water events.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
 - (d) the extent to which external influences on the water source during the term of this Plan have affected progress towards achieving the environmental objectives.

Note—

External influences may include climate trends, land use patterns, decisions made by the NSW Environmental Water Manager and other factors.

11 Economic objectives

- (1) The broad economic objective of this Plan is to maintain, and where possible improve, access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.

(2) The targeted economic objectives of this Plan are as follows—

- (a) to provide water trading opportunities for surface water-dependent businesses,

Note—

Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.

- (b) to maintain, and where possible improve, access to water for agriculture, surface water dependent businesses and landholders, up to the long-term average annual extraction limit and the long-term average sustainable diversion limit,

- (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.

(3) The strategies for reaching the targeted economic objectives of this Plan are as follows—

- (a) provide for trade of water allocations and share components subject to environmental and system constraints,

Notes—

1 The provisions in Part 11 permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences, assignment of water allocations between access licences and the ability to move the share component of an access licence from one water source to another.

2 Clause 32 creates an inter-valley share component trade account that can be set aside to meet water requirements in the Lower Namoi Regulated Water Source.

- (b) provide a stable and predictable framework for sharing water among water users,

Note—

The available water determination provisions in Part 7 provide certainty in how water is to be shared between different categories of access licences.

- (c) provide for flexibility of access to water,

Note—

The water allocation account management rules in Part 9 provide flexibility that reflects the characteristics of the licence category.

- (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit, while recognising variability in climatic conditions in different years, including during drought,

Note—

The application of the long-term average annual extraction limit and the long-term average sustainable diversion limit and the assessment and compliance provisions in Part 7 manage extractions to different climatic conditions in different years.

- (e) reserve a share of water to partially mitigate deterioration in water quality due to alterations to natural flow regimes.

- (4) The performance indicator used to measure success the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan, as assessed using one or more of the following—
 - (a) the economic benefits of water extraction and use, including the movement of water to higher value uses,
 - (b) the economic benefits of water trading including as demonstrated by—
 - (i) the annual number or volume of share components of access licences transferred or assigned, and
 - (ii) the weighted average unit price of share components of access licences transferred or assigned, and

Note—

Weighted average unit price is defined in the Dictionary.

 - (iii) the annual volume of water allocations assigned, and
 - (iv) the weighted average unit price of water allocations assigned,
- (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH, and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the economic benefits of surface water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the water made available during the term of this plan through available water determinations and granting of new licences,
 - (d) the extent to which external influences on surface-water dependent businesses during the term of this Plan have affected progress towards achieving the economic objectives.

Note—

External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances, climate and changes in industry policy or regulation.

12 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows—
 - (a) to provide access to water in the exercise of native title rights,
 - (b) to provide access to water for Aboriginal cultural use, including fishing,
 - (c) to protect, and where possible improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
 - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows—

- (a) manage access to water consistently with the exercise of native title rights,
- (b) provide for water associated with Aboriginal cultural values and uses,

Note—

The provisions in Part 8 provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory 'Aboriginal cultural'.

- (c) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,

Note—

The provisions in Part 6 partially mitigate the alterations to low, medium and high flows.

- (d) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
 - (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan, as assessed using

one or more of the following—

- (a) the use of water by Aboriginal people by measuring factors including—
 - (i) the extent to which native title rights are able to be exercised, consistently with any determination of native title or indigenous land use agreement, and
 - (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,
 - (b) the recorded range or extent of target populations of native fish,
 - (c) the recorded range or condition of target populations of riparian vegetation,
 - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
 - (d) the water made available for Aboriginal cultural values and uses during the term of this Plan through available water determinations and the granting of new licences,
 - (e) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress towards achieving the Aboriginal cultural objectives.

Note—

External influences may include trends in Aboriginal cultural activity, urban, agricultural and industrial development, climate or changes in policy or regulation.

12A Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to provide access to surface water to support surface water-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are to maintain, and where possible improve, the following—

- (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
 - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing,
 - (c) water quality within target ranges for basic landholder rights, town water supply, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows—
- (a) provide water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
 - (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,
 - (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success in reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan as assessed using one or more of the following—
- (a) the social and cultural uses of water during the term of this Plan by measuring factors including—
 - (i) the extent to which basic landholder rights and licensed domestic and stock requirements have been met, and
 - (ii) the extent to which major utility access license and local water utility access licence requirements have been met,
 - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,
 - (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
 - (d) the recorded values of water quality measurements including salinity, harmful

algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.

- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant—
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
 - (d) the water made available during the term of this Plan through available water determinations and the granting of new licences,
 - (e) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress toward achieving the social and cultural objectives.

Note—

External influences may include trends in urban, agricultural and industrial development, social or cultural behaviour, climate or changes in policy or regulation.

Part 3 Bulk access regime

13 Bulk access regime

- (1) This plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following—
- (a) the planned environmental water established under Part 4,
 - (b) the requirements for water to satisfy basic landholder rights identified under Part 5,
 - (c) the requirements for water extraction under access licences identified under Part 5,
 - (d) the access licence dealing rules established under Part 11.
- (2) The bulk access regime—
- (a) establishes rules according to which—
 - (i) access licences are to be granted as provided for in Part 8, and
 - (ii) available water determinations are to be made as provided for in Part 7, and

- (iii) access licences are managed as provided for in Part 9, and
- (b) establishes rules with respect to the priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in extraction above the long-term average annual extraction limit or long-term average sustainable diversion limit in Part 7, and
- (c) recognises, and is consistent with, the following—
 - (i) the limits to the availability of water as provided for in Part 7,
 - (ii) the water management principles under section 5 of the Act,
 - (iii) the effect of climatic variability on the availability of water as described in clause 14, and
- (d) contains provisions with respect to the mandatory conditions imposed on access licences in Part 12.

14 Climatic variability

This Plan recognises the effects of climatic variability on river flow through provisions contained in Part 7 that—

- (a) manage the sharing of water within the limits of water availability on a long-term basis, and
- (b) establish priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in extraction against the long-term average annual extraction limit or the long-term average sustainable diversion limit, and
- (c) manage the sharing of water between categories of access licences on an annual basis through available water determinations.

Note—

Other statutory tools are available to manage for climatic variability within a water source, for example, temporary water restrictions under section 324 of the Act.

Part 4 Environmental water provisions

Note—

This Part is made in accordance with sections 8, 8A, 8B, 8C, 8D, 8E and 20 of the Act.

Division 1 Planned environmental water

15 General

This Part contains environmental water provisions that commit, identify, establish and

maintain planned environmental water.

Note—

In accordance with the Act, planned environmental water is water that is committed by management plans for fundamental ecosystem health or other specified environmental purposes, either generally or at specified times or in specified circumstances, and that cannot to the extent committed be taken or used for any other purpose.

16 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water by reference to the following—

- (a) the physical presence of water in the water source,
- (b) the long-term average annual commitment of water as planned environmental water,
- (c) the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

17 Establishment and maintenance of planned environmental water

(1) Planned environmental water is established in the water source as follows—

- (a) the physical presence of water, resulting from the following—
 - (i) the environmental release rules specified in Part 6,
 - (ii) the limitations on access to uncontrolled flows for regulated river (general security) access licences as specified in Division 2 of Part 9,

Note—

The rules in Part 6 set water aside in Chaffey Dam for the purpose of making releases later in the water year for environmental purposes. These rules also require the release water from Chaffey Dam through to the end of Peel Regulated River Water Source. The provisions in Division 2 of Part 9 protect 50% of uncontrolled flow volumes that arise from unregulated inflows to the water source above the specified flow thresholds for the environment.

- (b) the long-term average annual commitment of water as planned environmental water resulting from compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit in Part 7,
 - (c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the provisions in Part 7 and Part 9.
- (2) The planned environmental water established under subclause (1) (a) is maintained by—
- (a) the environmental release rules specified in Part 6,
 - (b) the limitations on access to uncontrolled flows for regulated river (general

security) access licences as specified in Division 2 of Part 9.

- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 7.
- (4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Part 7 and Part 9.

Note—

The provisions in Part 7 of this Plan ensure that there will be water remaining in the water source over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 7 also provide for reduced available water determinations when either of those limits has been assessed to have been exceeded.

Division 2 Adaptive environmental water

18 Adaptive environmental water provisions

- (1) A holder of an access licence in these water sources may request that the Minister impose an adaptive environmental water condition in respect of the whole or a part of the access licence, in accordance with section 8B of the Act.
- (2) An access licence may be granted in these water sources in accordance with section 8C of the Act.
- (3) An access licence surrendered by its holder may be kept by the Minister, or transferred, or changed to a different category or subcategory, in accordance with section 8D of the Act.

Part 5 Requirements for water

Division 1 General

19 Application

- (1) This Part identifies the requirements for water from these water sources for basic landholder rights (Division 2) and for extraction under access licences (Division 3).
- (2) The amounts of water specified in this Part represent the estimated water requirements of persons entitled to basic landholder rights in these water sources, and the total volumes or unit shares to be specified in the share components of all access licences in these water sources. The actual volumes of water available in these water sources at any time will depend on factors such as climatic variability, access licence priority and the rules in this Plan.
- (3) This Plan recognises that basic landholder rights in these water sources and the total share components of all access licences authorised to extract water from these water sources may change during the term of this Plan. This Plan manages such changes by

having provisions that share water within the limits of water availability, as provided for in Division 1 of Part 7 of this Plan.

Note—

The total share components of access licences in these water sources may change during the terms of this Plan as a result of (a) the granting, surrender or cancellation of access licences in these water sources, (b) the variation of local water utility licences under section 66 of the Act, or (c) changes due to the conversion of [Water Act 1912](#) entitlements.

Division 2 Requirements for water for basic landholder rights

20 Domestic and stock rights

On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights are estimated to total 300 megalitres per year (ML/year).

Notes—

- 1** Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.
- 2** Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.
- 3** The volumes set out in this clause are separate from any volumes of water that may be taken under an access licence for domestic and stock purposes.

21 Native title rights

The requirement for water to satisfy native rights is the water that may be taken in the exercise of native title rights in accordance with the [Native Title Act 1993](#) of the Commonwealth, including—

- (a) under any determination of native title, and
- (b) any indigenous land use agreement.

Notes—

- 1** No determinations of native title in relation to the water source have been made in accordance with the [Native Title Act 1993](#) of the Commonwealth.
- 2** This Plan may be amended if there is a native title determination in accordance with the [Native Title Act 1993](#) of the Commonwealth by which water is required.
- 3** Native title rights may be exercised in accordance with the [Native Title Act 1993](#) of the Commonwealth, including section 211 of that Act.

22 (Repealed)

Division 3 Requirements for water for extraction under access

licences

23 Share components of domestic and stock access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock access licences total 163 ML/year.

24 Share components of local water utility access licences

On the commencement of this Plan, it is estimated that the share components of local water utility access licences total 16,400 ML/year.

25-27 (Repealed)

28 Share components of regulated river (high security) access licences

It is estimated that at the time of commencement of this Plan, the share components of regulated river (high security) access licences authorised to take water from the Peel Regulated River Water Source will total 804 unit shares.

29 Share components of regulated river (general security) access licences

It is estimated that at the time of commencement of this Plan, the share components of regulated river (general security) licences authorised to take water from the Peel Regulated River Water Source will total 30,335 unit shares.

Part 6 System operation rules

30 General

Clause 31 (3) does not apply if an authorisation under section 8 of the [Water Supply \(Critical Needs\) Act 2019](#) in relation to the development of the Chaffey Dam to Dungowan Village pipeline is in force.

Note—

If an authorisation referred to above is in force, alternate rules will apply as set out in the authorisation.

31 Environmental release rules from Chaffey Dam

- (1) Until the storage capacity of Chaffey Dam has been enlarged to 100,000 megalitres (hereafter **ML**) the following rules shall apply—
 - (a) if at the start of a water year the volume of water in Chaffey Dam water storage is greater than 50,000 ML, then the next 1,600 ML of inflows to Chaffey Dam shall be set aside in Chaffey Dam for the purpose of releasing a flow called a stimulus flow from Chaffey Dam,
 - (b) if at the start of a water year the volume of water in Chaffey Dam water storage is equal to or less than 50,000 ML then, the first time during that water year the volume of water in Chaffey Dam water storage increases to more than 50,000 ML,

then the next 1,600 ML of inflows to Chaffey Dam shall be set aside for the purpose of releasing a flow called a stimulus flow from Chaffey Dam,

- (c) after 1,600 ML has been set aside under paragraph (a) or (b) for a stimulus flow, it shall be released from Chaffey Dam between 1 July and 31 August or between 1 March and 30 June in the following calendar year, if a flow of 500 ML/day or greater has not occurred in the Peel River at Piallamore in the preceding 90 days,
 - (d) a stimulus flow release made under paragraph (c) should continue for a period of 7 days with a total volume of 1,600 ML and a peak of 500 ML/day occurring on the second day, and
 - (e) extraction of the stimulus flow under regulated river (general security) access licences is permitted to the extent specified in clause 62.
- (2) After the storage capacity of Chaffey Dam has been enlarged to 100,000 ML or greater, an environmental contingency allowance (hereafter **ECA**) is to be set aside in Chaffey Dam water storage and managed in accordance with the following—
- (a) an account of the ECA water that is set aside in Chaffey Dam is to be kept,
 - (b) whenever an available water determination for regulated river (general security) access licences is made, a volume of water in megalitres that is equivalent to 5,000 multiplied by that available water determination shall be allocated to the ECA account,
 - (c) water in the ECA account shall be released to return some of the natural flow variability to the upper reaches of the Peel River which have been adversely affected by river regulation,
 - (d) where the capacity to release water from Chaffey Dam is insufficient to meet the ECA release requirements plus access licence water orders for that same day then access licence water orders shall have priority,
 - (e) the ECA account shall be deducted with a volume of water equal to the amount released from Chaffey Dam under paragraph (c),
 - (f) any unused water remaining in the ECA account at the end of the water year cannot be carried over to the following water year, and
 - (g) extraction of ECA releases under regulated river (general security) access licences is permitted to the extent specified in clause 62.
- (3) A minimum daily release will be made from Chaffey Dam that is equal to 3 ML except when a release of greater than 3 ML/day is required to meet basic landholder rights and access licence extractions or when a release is being made under subclauses (1) or (2).

32 Inter-valley share component trade account rules

- (1) If the sum of share components of all access licences that specified the Peel Regulated River Water Source, that have been subject to a dealing under clause 85 subclause (2) plus the total water allocations that have been subject to a dealing under clause 86 subclause (4) in any water year exceeds 7,500, then an inter-valley share component trade account will be established.
- (2) After the account has been established under subclause (1), a volume of water will be credited to the inter-valley share component trade account equal to any subsequent available water determination made for regulated river (general security) access licences, multiplied by 40% of the sum of share components for all access licences that specified the Peel Regulated River Water Source, that were subject to a dealing under clause 85 subclause (2) paragraph (c) in excess of 7,500.

Note—

The maximum volume of the inter-valley share component trade account is 3,000 ML.

- (3) The amount of water that is credited to the inter-valley share component trade account under subclause (2) shall be set aside in Chaffey Dam for release under subclause (5).
- (4) The release of water set aside in Chaffey Dam under subclause (3) shall be determined by State Water so as to meet any water requirements in the Lower Namoi Regulated River Water Source and cannot be used to satisfy water requirements in the Peel Regulated River Water Source.
- (5) The inter-valley share component trade account will be debited with a volume of water equal to the amount of water required under subclause (4) as measured at Caroll Gap.
- (6) Water remaining in the inter-valley share component trade account at the end of each water year will not be carried over to the following water year.

33 Water delivery and channel capacity constraints

Where necessary for determining numerical extraction components, 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.

Note—

There are no defined channel constraints at the commencement of this Plan.

34 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.

35 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.

Note—

During the course of an extended drought, the implementation of the above provisions may result in short term ordering delays.

36 Dam operation during floods and spills

The operation of Chaffey Dam during times of flood and spilling of water is to be undertaken in a manner that maintains the safety of dam infrastructure.

37 Supply for domestic and stock and native title rights

- (1) The water supply system in the Peel Regulated River Water Source shall be managed so that it would be capable of maintaining supply to those exercising domestic and stock rights and native title rights in the water source through a repeat of the worst period of low inflows to the Peel Regulated River Water Source, as represented by flow information held by the NSW Office of Water.
- (1A) However, the flow information that may be relied on under subclause (1) to determine the worst period of low inflows in connection with the exercise of domestic and stock rights is limited to historical flow information held by the Department when

this Plan commenced.

- (2) To achieve subclause (1), sufficient volumes of water must be set aside from assured inflows into the Peel Regulated River Water Source and in reserves held in Chaffey Dam.

Part 7 Limits to the availability of water

Note—

This Part sets out the rules for managing the availability of water for extraction in accordance with the following long-term limits on extraction—

- (a) a long-term average annual extraction limit, and
- (b) a long-term average sustainable diversion limit.

Division 1 Calculations under this Part

38 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following—
 - (a) the long-term average annual extraction limit under clause 39,
 - (b) the average annual extraction under clause 40,
 - (c) the annual permitted take under clause 44,
 - (d) the annual actual take under clause 44.

Note—

Annual permitted take and **annual actual take** are defined in the Dictionary.

- (2) The calculation by the Minister which this clause applies must—
 - (a) exclude the following—
 - (i) allocations assigned from an access licence in the water source to an access licence in another water source under section 71T of the Act,
 - (ii) environmental releases provided for in Part 6,
 - (iii) in relation to average annual extraction under clause 40 only, water committed as licensed environmental water under section 8F of the Act, and
 - (b) include the following—
 - (i) allocations assigned to an access licence in the water source from an access licence in another water source under section 71T of the Act,
 - (ii) the extraction of water from Dungowan Dam water storage under a local water

utility access licence.

- (3) The calculation by the Minister of the long-term average annual extraction limit under clause 39 must be adjusted by a volume that appropriately reflects the following—
- (a) any change to the amount of water committed as licensed environmental water under section 8F of the Act,
 - (b) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act.

Division 2 Long-term average annual extraction limit

39 Calculation of the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister must calculate the long-term average annual extraction limit for the water source in accordance with this clause and clause 38.
- (2) The long-term average annual extraction limit is the lesser of the following—
- (a) the average annual extraction, based on the following—
 - (i) the water storages and water use development that existed in 2007/2008,
 - (ii) the basic landholder rights and access licence share components that existed on 1 July 2010,
 - (iii) the rules set out in the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* that apply to the water source as at 1 July 2010,
 - (iv) the level of development for plantation forestry that existed on 30 June 2009.

Note—

Planation forestry is defined in the Dictionary.

- (b) the average annual extraction calculated under Cap baseline conditions as agreed under the Murray-Darling Basin Agreement that was in place at the commencement of the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010*,

Note—

Murray-Darling Basin Agreement is defined in the Dictionary.

plus the long-term average annual extraction from Dungowan Dam water storage under a local water utility access licence.

Note—

Cap baseline conditions are defined in the Dictionary.

- (3) For the purposes of subclause (2), average annual extraction is to be calculated over the duration of available water climate records using the hydrological computer model approved by the Minister.

Notes—

- 1** Under section 8F of the Act the long-term average annual extraction limit is to be varied by any change to licensed environmental water, excluding water committed under section 8C of the Act.
- 2** The long-term average annual extraction limit recognises the effect of climatic 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.

40 Calculation of average annual extraction

- (1) Following the end of each water year, the Minister is to calculate average annual extraction from the water source over the preceding ten water years plus average annual extraction from Dungowan Dam water storage by Tamworth Regional Council over the same ten water years.
- (2) If required under clause 42 (2), the Minister is to calculate the sum of the following—
- (a) the average annual extraction from the water source using the hydrological computer model approved by the Minister, over the duration of available climate records, based on the following—
- (i) the water storages and water use development that existed in that water year,
- (ii) the basic landholder rights and access licence share components that existed in that water year,
- (iii) the rules in this Plan, that applied in that water year, and
- (iv) the level of development for plantation forestry in that water year,
- (b) the long-term average annual extraction from Dungowan Dam water storage by Tamworth Regional Council.

41 Calculation of growth in extraction by Tamworth Regional Council

- (1) Following the end of each water year, the Minister, is to calculate the average annual extraction by the following access licences held by Tamworth Regional Council—
- (a) access licences specified in Schedule 1,
- (b) access licences resulting from a dealing involving an access licence specified in Schedule 1,

(Tamworth Regional Council access licences).

- (2) Following the calculation under subclause (1), the Minister is to calculate the growth in extraction by Tamworth Regional Council by calculating the difference between the

average annual extraction calculated under subclause (1) and the average annual extraction by the Tamworth Regional Council access licences under Cap baseline conditions.

- (3) If the growth calculated in accordance with subclause (2) is less than zero, the growth is taken to be zero.
- (4) For the purposes of subclause (1) and (2), average annual extraction is to be calculated over the duration of available water climate records using the hydrological computer model approved by the Minister.

42 Assessment of compliance with the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister is to calculate the average annual extraction from the water source over the preceding ten water years plus average annual extraction from Dungowan Dam water storage by Tamworth Regional Council over the same ten water years, based on the development conditions that are used to determine the long-term average annual extraction limit in clause 39 (2) (a).
- (2) If average annual extraction calculated under clause 40 (1) exceeds average annual extraction calculated under subclause (1) by more than 20%, then a calculation in accordance with clause 40 (2) is to be undertaken.
- (3) There is non-compliance with the long-term average annual extraction limit if the sum of average annual extraction calculated under clause 40 (2) minus 95% of the growth in extraction by Tamworth Regional Council as calculated under clause 41, exceeds the long-term average annual extraction limit by 3% or more.

Division 3 Long-term average sustainable diversion limit

43 Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for the water source is—
 - (a) the component of the baseline diversion limit the Namoi SDL resource unit as determined under Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to the water source, minus
 - (b) the component of the local reduction amount for the Namoi SDL resource unit as determined under Schedule 2 of the Basin Plan, that in the Minister's opinion is attributable to the water source, minus
 - (c) the component of the shared reduction amount for the Namoi SDL resource unit as determined under section 6.05 of the Basin Plan, that in the Minister's opinion is attributable to the water source.
- (2) The long-term average sustainable diversion limit is to be varied as determined under

Chapter 7 of the Basin Plan.

Notes—

- 1 **Baseline diversion limit** and **SDL resource unit shared reduction amount** are defined in the Dictionary.
- 2 The long-term average sustainable diversion limit for the Namoi SDL resource unit as specified in Schedule 2 of the Basin Plan covers extractions from the water source, the Upper and Lower Namoi Regulated River Water Sources, the Peel Unregulated River Water Sources and the Namoi Unregulated River Water Sources.
- 3 Schedule 2 of the Basin Plan Specifies a local reduction amount of 20 GL.

44 Calculation of annual permitted take and annual actual take for the water year

- (1) Following the end of each water year, the Minister is to calculate annual permitted take and annual actual take of water for the previous water year in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to the water source.

Notes—

- 1 Take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation of annual permitted take and annual actual take as they fall outside the definition of take for consumptive use.
- 2 **Consumptive use** and **take** are defined in section 4 of the [Water Act 2007](#) of the Commonwealth.

45 Assessment of compliance with the long-term average sustainable diversion limit

- (1) Following the calculation under clause 44 after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit, in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

Division 4 Compliance with extraction and diversion limits

46 Action following non-compliance

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 42 or 45 demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister is to reduce the limit of the sum of available water determinations under clause 47 (2) for regulated river (general security) access licences.

Note—

Action under this clause will have effect for the water year following the assessment, which will be two water years after the non-compliance occurred.

- (2) The Minister may take the action specified in subclause (1) if an assessment under

clause 45 would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

- (3) An action in accordance with subclause (1) and (2) is to be taken to the extent to which and only for as long as, the Minister considers the following is necessary—
 - (a) in the case of non-compliance with the long-term average annual extraction limit—to return long-term average annual extraction in the water source minus 95% of the growth in extractions by Tamworth Regional Council to the long-term average annual extraction limit,
 - (b) in the case of non-compliance with the long-term average sustainable diversion limit—to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
 - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse—to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) Before taking action under subclause (1) or (2) the Minister may consult with water user representatives on the following—
 - (a) the data used for the calculations under Divisions 2 and 3, and
 - (b) the proposed actions under this Division.

Division 5 Available water determinations

47 General

- (1) Available water determinations for access licences are to be expressed as one of the following—
 - (a) for an access licence specifying the share component as ML/year—a percentage of the share component,
 - (b) for an access licence specifying the share component as a number of unit shares—megalitres (**ML**) per unit share.
- (2) The sum of available water determinations made for any access licence must not exceed the following in any water year—
 - (a) for an access licence specifying the share components in ML/year—100% of the access licence share component,
 - (b) for an access licence specifying the share component as a number of unit shares—1 ML per unit share of the access licence share component unless a lower amount is determined under clause 46.

48 Available water determinations for domestic and stock access licences

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 70% of the access licence share component is to be made for domestic and stock access licences.
- (2) Subject to clause 47 (2), further available water determinations may be made for domestic and stock access licences if water is available after making an available water determination for regulated river (high security) access licences in accordance with clause 50 (1).

49 Available water determinations for local water utility access licences

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 70% of share components is to be made for local water utility access licences.
- (2) Subject to clause 47 (2), further available water determinations may be made for local water utility access licences if water is available after making an available water determination to regulated river (high security) access licences in accordance with clause 50 (1).

50 Available water determinations for regulated river (high security) access licences

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 0.5 ML per unit share is to be made for regulated river (high security) access licences.
- (2) Following the available water determination made in accordance with subclause (1), the Minister is to assess if water is available for the making of further available water determinations for regulated river (high security) access licences.
- (3) For the purposes of this assessment, water is not available unless sufficient water is available for the following—
 - (a) to meet the provisions in Part 6,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to provide for existing allocations in access licence water allocation accounts,
 - (e) to account for water losses associated with holding and delivering the water—
 - (i) as a result of the available water determination made in accordance with subclause (4), and

(ii) referred to in paragraphs (a) to (d) above.

- (4) If the Minister assesses under subclause (2) that water is available, the Minister is to consider making an available water determination for regulated river (high security) access licences, subject to clause 47 (2).

51 Available water determinations for regulated river (general security) access licences

- (1) The Minister is to assess, at least monthly, if water is available for the making of an available water determination for regulated river (general security) access licences, at least monthly.
- (2) For the purposes of this assessment, water is not available unless sufficient water is available for the following—
- (a) to meet the provisions in Part 6,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to make available water determinations totalling 1 ML per unit share for regulated river (high security) access licences,
 - (e) to provide existing water allocations in access licence water allocation accounts,
 - (f) to account for water losses associated with holding and delivering the water—
 - (i) to be made available as a result of the available water determination under this clause, and
 - (ii) referred to in paragraphs (a) to (e) above.
- (1) If the Minister assesses under subclause (1) that water is available, the Minister is to consider making an available water determination (in ML per unit share) for regulated river (general security) access licences, subject to clause 47 (2).

52, 53 (Repealed)

Part 8 Rules for granting access licences

Note—

This Part is made in accordance with sections 20, 61 and 63 of the Act. Access licences granted in these water sources will be subject to mandatory conditions and discretionary conditions.

54 Specific purpose access licences

- (1) A specific purpose access licence shall not be granted in the water source unless the

Minister is satisfied that the share and extraction component of the access licence is the minimum required to meet the circumstances in which the access licence is proposed to be used.

- (2) Applications for specific purpose access licences, other than those permitted under the *Water Management (General) Regulation 2004* (hereafter **the Regulation**), may not be made in the water source.
- (3) An access licence of the subcategory (“Aboriginal cultural”) shall not be granted in these water sources unless the share component of the proposed access licence is less than or equal to 10 ML/year.

Part 9 Rules for managing access licences

Notes—

1 Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part limit the water that may be taken under, or assigned from, an access licence over a specified period of time, and the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These limits are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.

2 The provisions in this Part apply to the following persons—

- (a) the Minister in managing water allocation accounts,
- (b) the access licence holder, as required by mandatory conditions imposed on the access licence under Part 12.

Division 1 Accounting for water allocation accounts

55 Debits from an individual water allocation account

For any access licence, the Minister must debit the volume of water extracted by water supply works nominated by the access licence from the water allocation account of the licence, except where clause 57 applies.

56 Limits on water allocation accounts and carryover

Water allocations remaining in a water allocation account must not be carried over from one water year to the next water year for any category of licence.

Division 2 Taking of uncontrolled flows

57 Taking of uncontrolled flows under regulated river (general security) access licences

Notes—

- 1** This clause is made under section 85 of the Act.
- 2** **Uncontrolled flow** is defined in the Dictionary.

- (1) The Minister may, by order published on the Department’s website, authorise the holders of regulated river (general security) access licences to take water from uncontrolled flows that have not been credited to the water allocation accounts of the

licences in accordance with the rules in this clause.

(2) The taking of uncontrolled flows that arise from unregulated inflows to the water source, by holders of regulated river (general security) access licences that nominate a water supply work located in a segment of the water source specified in Column 1 of Table A must—

(a) not be permitted to commence until flows have increased to the start flow specified in Column 3 of Table A as measured at the flow reference point specified in Column 4 of Table A for that segment of the water source, and

(b) be required to cease when flows have decreased to less than the finish flow specified in Column 5 of Table A as measured at the flow reference point specified in Column 6 of Table A for that segment of the water source,

whenever the sum of available water determinations for regulated river (general security) access licences in the water source is equal to that specified in Column 2 of Table A for the water year for that segment of the water source.

(3) The taking of uncontrolled flows under subclause (2) must not be permitted to exceed 50% of the forecast uncontrolled flow volume above the finish flow specified in Column 5 of Table A for the segment of the water source as measured at—

(a) the most downstream gauge for each segment of the water source, if the sum of available water determinations for regulated river (general security) access licences is less than 0.35 ML per unit of share component in the water year, or

(b) Carroll Gap, if the sum of available water determinations for regulated river (general security) access licences is equal to or greater than 0.35 ML per unit of share component in the water year.

Table A —Uncontrolled flow arising from unregulated inflows

Column 1— Segment of the water source	Column 2— Total AWD (ML per unit share)	Column 3— Start flow (ML/day)	Column 4— Flow reference points	Column 5— Finish flow (ML/day)	Column 6— Flow reference points
Chaffey Dam to Paradise Weir					
Paradise Weir to Attunga Creek	Less than 0.35 zone	40	Peel River at Carroll Gap gauge (419006)	5	Any gauge within the segment in Column 1
Attunga Creek to the Namoi River					

Chaffey Dam
to Paradise
Weir

Paradise Weir Greater than
to Attunga or equal to 50
Creek 0.35

Peel River at
Carroll Gap 50
gauge
(419006)

Peel River at
Carroll Gap
gauge (419006)

Attunga
Creek to the
Namoi River

- (4) The taking of uncontrolled flows that arise from ECA releases made under clause 31, by regulated river (general security) access licences that nominate a water supply work located from Chaffey Dam to the Peel River at Piallamore gauge (419015) must—
- (a) not commence until the flow arising from a release of water from the ECA is greater than or equal to 50 ML/day, as measured at the Peel River at Piallamore gauge (419015),
 - (b) cease when the flow arising from a release of water from the ECA is less than 50 ML/day, as measured at the Peel River at Piallamore gauge (419015),
 - (c) not be pumped into an on-farm storage.
- (5) The taking of uncontrolled flows that arise from ECA releases made under clause 31, by holders of regulated river (general security) access licences that nominate a water supply work located downstream of the Peel River at Piallamore gauge (419015) must—
- (a) not commence until the flow arising from a release of water from the ECA are greater than or equal to the forecasted flow specified in Column 2 of Table B as measured at the flow reference point specified in Column 3 of Table B, and
 - (b) cease when the flow arising from a release of water from the ECA is less than the finish flow specified in Column 4 of Table B as measured at the flow reference point specified in Column 5 of Table B,

whenever the sum of available water determinations for regulated river (general security) access licences in the water source is equal to that specified in Column 1 of Table B.

Table B — Flows arising from ECA releases from Chaffey Dam downstream of the Peel River at Piallamore gauge (419015)

Column 1— Total AWD (ML per unit share)	Column 2— Forecast flow (ML/ day)	Column 3— Flow reference points	Column 4— Finish flow (ML/day)	Column 5— Flow reference points
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Less than 0.35	40	Peel River at Caroll Gap gauge (419006)	5	Any gauge within the segment to which the announcement applies
Greater than or equal to 0.35	50	Peel River at Caroll Gap gauge (419006)	50	Peel River at Caroll Gap gauge (419006)

- (6) In any water year, the total amount of water permitted to be taken from uncontrolled flows by each regulated river (general security) access licence must not exceed the difference between—
- (a) the sum of available water determinations made for regulated river (general security) access licences in that water year, and
 - (b) the limit of the sum of available water determinations that can be made for regulated river (general security) access licences under clause 46.
- (7) Regulated river (general security) access licence holders must be required to supply the operator with meter readings taken immediately prior to and after the taking of uncontrolled flows within 7 days of ceasing to take uncontrolled flow.
- (8) If the total amount of water taken from uncontrolled flows by a regulated river (general security) access licence exceeds the limits specified in subclause (6), then a volume equivalent to the exceedance will be debited from allocations credited to the access licence water allocation account in that water year.

Note—

It is possible for the limits specified in subclause (6) to be exceeded if available water determinations increase after uncontrolled flows have been extracted.

58-69 (Repealed)

Part 10

70-81 (Repealed)

Part 11 Access licence dealing rules

Notes—

- 1** Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2** At the commencement of this Plan the [Access Licence Dealing Principles Order 2004](#) applies. The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.
- 3** An application for a dealing may be refused, or conditions imposed on an access licence or water supply work approval at the time of a dealing to give effect to the provisions of this Plan.
- 4** This Part may be amended if individual daily extraction components are imposed on access licences in the water source.

82 Conversion of access licence to new category dealings

Dealings under section 71O of the Act are prohibited.

83 Assignment of rights dealings (within the water source or within a water management area)

- (1) A dealing under section 71Q of the Act within the water source is prohibited if the dealing is from a regulated river (high security) access licence that does not nominate a water supply located downstream of Jewry Street Bridge over the Peel River to a regulated river (high security) access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River.
- (2) A dealing under section 71Q of the Act that is from or to an access licence in another water source is prohibited unless the dealing involves all of the following—
 - (a) the dealing is to an access licence in the Lower Namoi Regulated River Water Source,
 - (b) a conversion factor of 0.5 is applied to the increase in share component,
 - (c) the sum of share components of the following do not exceed 15,000—
 - (i) the share components assigned from the water source from a dealing under section 71Q of the Act in accordance with this subclause, and
 - (ii) the share components of an access licence cancelled from a dealing under section 71R of the Act in accordance with clause 84.

84 Amendment of share component dealings (change of water source)

Dealings under section 71R of the Act are prohibited unless the dealing involves all of the following—

- (a) the cancellation of an access licence with a share component that specifies the water source,
- (b) the issuing of an access licence with a share component that specifies the Lower Namoi Regulated River Water Source,
- (c) the share component of the access licence issued being equal to 0.5 times the share component of the cancelled access licence,
- (d) the sum of share components of the following does not exceed 15,000—
 - (i) the share components of cancelled access licences from dealings under section 71R of the Act in accordance with this clause, and
 - (ii) the share components assigned from the water source from dealings under section 71Q of the Act in accordance with clause 83 (2).

Note—

Rules for an inter-valley trading account, as set out in clause 32 of this Plan will come into effect when dealings under this clause and clause 83 (2) exceed 7,500 ML.

85 Interstate access licence transfer and assignment of water allocations

- (1) Dealings under section 71U of the Act involving the interstate transfer of an access licence to or from the water source are prohibited.
- (2) Dealings under section 71V of the Act involving the interstate assignment of water allocations to or from the water source are prohibited.

86 Assignment of water allocations dealings

Dealings under section 71T of the Act are prohibited in any of the following circumstances—

- (a) if no available water determination has been made for regulated river (general security) access licences and the dealing involves an assignment of water allocation from an access licence that does not nominate a water supply work located downstream of the Jewry Bridge over the Peel River to an access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River,
- (b) the dealing involves an assignment of water allocation to or from an access licence in another water source.

87 Nomination of water supply work dealings

Dealings under section 71W of the Act are prohibited in any of the following circumstances—

- (a) the dealing involves a regulated river (high security) access licence that does not nominate a water supply work located downstream of the Jewry Street Bridge over the Peel River being amended to nominate a water supply work located downstream of the Jewry Street Bridge over the Peel River,
- (b) the dealing involves a regulated river (high security) access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River being amended to nominate a water supply work located downstream of the original water supply work,
- (c) the dealing involves an access licence in the water source being amended to nominate a water supply work located in another water source.

88 (Repealed)

Part 12 Mandatory conditions

Note—

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

Division 1 Access licences

89 General

- (1) All access licences in these water sources must have mandatory conditions to give effect to the following—
 - (a) the relevant water allocation account management rules specified in Division 1 of Part 9 of this Plan for the respective category or subcategory of access licence, and
 - (b) any other conditions required to implement the provisions of this Plan.
- (2), (3) (Repealed)
- (4) All regulated river (general security) access licences must have a mandatory condition that specifies that water may only be taken from uncontrolled flows in accordance with announcements made pursuant to any order under section 85A of the Act.
- (5) All access licences of the subcategory “Aboriginal cultural” must have a mandatory condition that specifies that water must only be taken by Aboriginal persons or Aboriginal communities for personal, domestic or communal purposes, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

Division 2 Water supply work approvals

Note—

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

90 General

- (1) All water supply work approvals for water supply works must have mandatory conditions to give effect to the following—
 - (a) all approval holders must keep records—
 - (i) of any water management infrastructure used in connection with the operation of the water supply work, and
 - (ii) of any cropping carried out using the water taken through the water supply work including the type of crop, area cropped, and dates of planting and

harvesting,

- (b) where metering equipment has been installed for use in connection with a water supply work, the approval holder must keep records of the time, date and quantity of water taken through the water supply work,
- (c) where metering equipment has not been installed for use in connection with a water supply work, the approval holder must keep records of all pumping activities for the water supply work including pump running hours, pump power usage and pump fuel usage,
- (d) when required by the Minister by notice in writing, the approval holder must provide any records kept under paragraphs (a), (b) or (c) to the Minister within the time specified in the notice and to the standard specified in the notice,
- (e) the records required to be kept under paragraphs (a), (b) or (c) must be kept for the duration of the approval,
- (f) when required by the Minister by notice in writing, metering equipment must be installed and maintained for use in connection with the water supply work,
- (g) if the Minister has specified in the notice issued under paragraph (f) that metering equipment must be of a type or standard or has specified other criteria, any metering equipment installed, operated or maintained must comply with any type, standard or the other criteria specified by the Minister, and

Note—

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

(h) any other conditions required to implement the provisions of this Plan.

- (2) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclause (1) (a) to (e) cease to have effect in relation to the work on the day on which the condition applies to the approval.

Note—

The *Water Management (General) Regulation 2018* will impose a mandatory condition requiring record keeping on access licences and approvals in the water source from 1 December 2021.

- (3) If an approval for a water supply work is subject to the mandatory metering equipment condition in relation to the work, subclause (1) (f) and (g) cease to have effect in relation to the work on the day on which the condition applies to the approval.

- (4) Subclause (1) is taken to be repealed on the day on which the temporary exemption

from the mandatory metering equipment condition ceases to apply to the water source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

Note—

Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to new works required to have a meter from 1 April 2019, and to other access licences and approvals in the water source from 1 December 2021.

91 Conditions to give effect to an authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019*

The water supply work approval held by WaterNSW authorising the operation of Chaffey Dam must have a mandatory condition to give effect to the conditions of any authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019* in relation to the development of the Chaffey Dam to Dungowan Village pipeline, that refer to the operation of the Dam or the release of water from it.

Part 13 Amendment of this Plan

92 General

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

93 Part 1

Part 1 may be amended to add, modify or remove a river or segment of a river, to or from the water source providing that—

- (a) any amendment is consistent with any applicable regulated river order, and
- (b) the Minister is satisfied that there will be no impact on the water available to the environment under Part 6 or on the available water to any access licence in the water source.

94 Part 9

- (1) Division 1 and 2 of Part 9 of this Plan may be amended to do any of the following—
 - (a) to replace the individual access licence account management rules for access licences in the Peel Regulated River Water Source following any enlargement of Chaffey Dam, and
 - (b) if the total pump capacity of water supply works nominating regulated river

(general security) access licences authorising extraction between Chaffey Dam and Piallamore gauging station increases by 20% or more than that which occurred at the commencement of this Plan, then clause 62 subclause (3) paragraph (b) may be amended to increase the flow threshold of 50 ML/day to 100 ML/day.

(2)-(4) (Repealed)

95 (Repealed)

96 Part 11

Part 11 may be amended to specify rules for extraction component dealings under section 71S of the Act.

97 (Repealed)

98 Schedules

(1)-(4) (Repealed)

(5) Schedule 5 may be amended to—

- (i) add or remove an access licence, and/or
- (ii) remove an access licence nominating a water supply work used to take water from groundwater is hydrogeologic investigations show that extractions under the access licence do not have an impact on extractions from the Peel Regulated River Water Source.

(6), (7) (Repealed)

99 Other

- (1) This Plan may be amended to include new environmental rules in Part 6 which better align with the Namoi Long Term Water Plan, subject to there being no increased impact on total average annual extractions permitted under the long-term average annual extraction limit applying at the commencement of this Plan.
- (2) This Plan may be amended to provide for the carryover of water remaining in the ECA in from one water year to the next in Part 6.
- (3) This Plan may be amended to provide alternate rules to the two-step process for assessing compliance with the long-term average annual extraction limit in Division 2 of Part 7.
- (4) An amendment authorised by this Plan is taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.

- (5) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

Dictionary

Aboriginal person has the same meaning as under section 4 of the [Aboriginal Land Rights Act 1983](#).

Annual actual take has the same meaning as it has in section 6.10 of the Basin Plan.

Annual permitted take has the same meaning as it has in section 6.10 of the Basin Plan.

Basin Plan means the *Basin Plan 2012* made under section 44 (3) (b) (i) of the [Water Act 2007](#) of the Commonwealth.

broad objectives define the desired long term outcomes of this Plan, and progress is evaluated by considering the cumulative achievement of the associated targeted objectives.

Cap baseline conditions are as agreed under the Murray Darling Basin Agreement that was in place at the commencement of the [Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010](#).

ECA means the environmental contingency allowance referred to in clause 31.

floodplain harvesting means the collection, extraction or impoundment of water flowing across floodplains, including rainfall runoff and overbank flow, excluding the take of water pursuant to any of the following—

- (a) a water access licence other than a floodplain harvesting access licence,
- (b) a basic landholder right,
- (c) an exemption from the need to hold an access licence to take water under the Act.

flow regimes mean, collectively, the magnitudes, durations, frequency and patterns of flow that characterise a river or water source.

Minister means the Minister administering the Act.

ML means megalitres.

Murray-Darling Basin Agreement means the Murray-Darling Basin Agreement as set out in Schedule 1 of the [Water Act 2007](#) of the Commonwealth.

natural flow means a flow that occurs in a watershed or waterbody under natural unregulated conditions.

NSW Environmental Water Manager means the NSW Government department or agency whose responsibility it is to manage licensed environmental water that is held by the NSW Government.

Note—

As at 1 July 2020, this is the NSW Department of Planning, Industry and Environment — Environment, Energy and Science (EES).

operator means the operator of the water supply system for the water source.

Note—

As at 1 July 2019, this is WaterNSW.

plantation forestry means a commercial plantation as defined in section 1.07 of the Basin Plan.

rainfall runoff means that portion of rainfall that runs off the land.

supply capability means the rate at which the Minister determines water can be supplied to a segment of the water source without incurring unacceptable transmission losses.

target ecological populations are communities of one or more species that are monitored to evaluate the success of targeted objectives for the environment. Populations must be easily monitored (i.e. not rare or cryptic) and may be linked to conservation or other environmental priorities.

the water source means the Peel Regulated River within the Namoi Water Management Area.

Transmission losses means the additional water required to ensure that a specified quantity of water is delivered to a specified delivery point.

uncontrolled flow means flow in excess of that needed to meet the following—

- (a) the environmental release rules in Part 6, including flows arising from ECA releases that are greater than the volumes specified in subclauses 57 (4) or (5),
- (b) basic landholder rights,
- (c) water orders placed by access licences.

water source as defined in clause 4.

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

weighted average unit price means the total value of all units sold divided by the number of units sold for a monetary value.

Schedules 2-4 (Repealed)

Schedule 5 Licences authorising the extraction of water for town

water supply purposes for the City of Tamworth

***Water Act 1912* entitlements from which access licences arise on commencement of this Plan:**

90SL040460
90SL011230
90BL131622
90BL131623
90BL131624
90BL131625
90BL131626
90BL131627
90BL131628

Access licences:

Schedules 6, 7 (Repealed)

Appendices 1, 2 (Repealed)