

# Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003

[2003-176]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 January 2014 to 30 June 2016 (accessed 27 December 2024 at 22:37)

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—

- **Note**  
In incorporating the amendments made by the *Water Management (Minister's Plans) Order No 2 of 2004*, published in Gazette No 110 of 1.7.2004, p 5072, changes have been made to the numbering of some of the provisions to maintain appropriate numerical or alphabetical order.
- **Repeal**  
This Plan was replaced by cl 4 (6) of the *Water Sharing Plan for the Castlereagh River Unregulated and Alluvial Water Sources 2011 (489)* (amended by the *Water Sharing Plan for the Castlereagh (below Binnaway) Unregulated and Alluvial Water Sources Amendment Order 2016 (368)*) with effect from 1.7.2016.
- **Note**  
This Plan ceases to have effect on 1.7.2016 — see GG No 46 of 29.5.2015, p 1244 (for previous extension see GG No 45 of 12.5.2014, p 1381).

## 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](#).

File last modified 1 July 2016

# Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003



New South Wales

## Contents

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

19 Determination of flow class .....	13
<b>Part 4 Environmental water provisions</b> .....	<b>14</b>
20 Environmental water provisions .....	14
21 Planned environmental water .....	14
22 Extraction by water supply work .....	17
23 Planned environmental water .....	17
24 Adaptive environmental water .....	17
<b>Part 5 Basic landholder rights</b> .....	<b>18</b>
25 Basic landholder rights .....	18
26 Domestic and stock rights .....	18
27 Native title rights .....	18
28 Harvestable rights .....	19
<b>Part 6 Bulk access regime</b> .....	<b>19</b>
29 Bulk access regime .....	19
<b>Part 7 Requirements for water under access licences</b> .....	<b>20</b>
30 Requirements for water under access licences .....	20
31 Estimate of water requirements .....	20
<b>Part 8 Rules for granting access licences</b> .....	<b>20</b>
32 Rules for granting access licences .....	20
<b>Part 9 Limits to the availability of water</b> .....	<b>21</b>
<b>Division 1 Long-term average extraction limit</b> .....	<b>21</b>
33 Limits to the availability of water .....	21
34 Extraction management unit .....	22
35 Long-term average extraction limit .....	22
36 Variation of the long-term average extraction limit .....	22
<b>Division 2 Available water determinations</b> .....	<b>22</b>
37 Available water determinations .....	22
<b>Part 10 Rules for managing access licences</b> .....	<b>24</b>

<b>Division 1 General</b> .....	24
38 Rules for managing access licences .....	24
<b>Division 2 Water allocation account management</b> .....	24
39 Water allocation account management.....	24
40 Water allocation accounts .....	24
41 Accrual of water allocations.....	24
42 Annual accounting for water extraction.....	24
43 Three year accounting for water extraction .....	25
<b>Division 3 Sharing flows on a daily basis</b> .....	25
44 Sharing flows on a daily basis .....	25
45 Total daily extraction limits.....	26
46 Initial assignment of the TDEL to categories of access licence .....	27
47 Unassigned TDEL.....	29
48 Daily extraction limits for individual access licence holders.....	29
49 Granting of unassigned TDEL .....	29
50 Adjustment to TDELS and IDELS.....	30
51 Administrative arrangements for managing access to daily flows.....	31
52 Infrastructure failure.....	32
<b>Part 11 Access licence dealing rules</b> .....	33
53 Access licence dealing rules.....	33
54 Rules relating to constraints within this water source .....	33
55 Rules for access licence dealings which alter the times, rates or circumstances specified access licence extraction components .....	34
56 Rules for change of water source .....	34
57 Rules for conversion of access licence category.....	35
58 Rules for interstate access licence transfer .....	35
59 Rules for water allocation assignments between water sources .....	35
60 Rules for interstate assignment of water allocations.....	36
<b>Part 12 Mandatory conditions</b> .....	36
61 Mandatory conditions on access licences.....	36

62 Very low flow access conditions .....	37
63 Unregulated river access licences .....	38
64 Local water utility access licences .....	39
65 Domestic and stock access licences .....	39
66 Runoff harvesting access licences .....	40
67 Unregulated river (Aboriginal cultural) access licences .....	40
68 Mandatory conditions on water supply works approvals .....	40
<b>Part 13 Granting and amending water supply works approvals .....</b>	<b>41</b>
69 Granting and amending water supply works approvals .....	41
70 Runoff harvesting dams .....	41
71 In-river dams .....	41
<b>Part 14 Monitoring and reporting .....</b>	<b>41</b>
72 Monitoring and reporting of performance indicators .....	41
<b>Part 15 Amendment of this Plan .....</b>	<b>42</b>
73 Amendment of this Plan .....	42
74 Amendment of very low flow provisions .....	42
75 Amendment of high flow provisions .....	43
76 Review of field verification .....	45
77 Other amendment of this Plan .....	46
78 Amendment relating to planned environmental water .....	46
79 Amendment of Plan relating to floodplain harvesting .....	46
<b>Dictionary .....</b>	<b>46</b>
<b>Schedule 2 Castlereagh River above Binnaway Water Source .....</b>	<b>49</b>
<b>Schedule 3 Rivers in the Castlereagh River above Binnaway Water Source</b> .....	<b>49</b>
<b>Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan</b> .....	<b>50</b>

<b>Schedule 5 Castlereagh Valley Extraction Management Unit</b> .....	54
<b>Schedule 6 Access licences with access to very low flows under subclauses 62 (1)-(2) of this plan</b> .....	55
<b>Schedule 7 Access licences with access to very low flows under subclauses 62 (3)-(8) of this plan</b> .....	55
<b>Appendix 1 Central West Water Management Area</b> .....	56
<b>Appendix 2 Location of maps</b> .....	56
<b>Appendix 3 Performance indicators</b> .....	57
<b>Appendix 4 (Repealed)</b> .....	60

# Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003



New South Wales

## Part 1 Introduction

### 1 Name of Plan

This Plan is the *Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003* (hereafter **this Plan**).

### 2 Nature and status of this Plan

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

### 3 Date of commencement

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

### 4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Central West Water Management Area known as the Castlereagh River above Binnaway Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

**Note—**

The Central West Water Management Area is shown on a map in Appendix 1.

**Note—**

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

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

- (a) the main trunk of Castlereagh River—Timor Dam to Pound Yard Weir management zone (hereafter **Zone 1**),
- (b) the main trunk of Castlereagh River—Pound Yard Weir to Merryula Road Crossing management zone (hereafter **Zone 2**),
- (c) the main trunk of Castlereagh River—Merryula Road Crossing to Belar Creek confluence management zone (hereafter **Zone 3**),
- (d) the main trunk of Castlereagh River—Belar Creek confluence to New Mollyann Road management zone (hereafter **Zone 4**),
- (e) the main trunk of Belar Creek (hereafter **Zone 5**), and
- (f) all other independent tributaries in this water source (hereafter **Zone 6**).

**Note—**

Zone 6 is deemed to include all rivers in this water source apart from the main trunk of the Castlereagh River and Belar Creek respectively.

**Note—**

Daily extraction limits are defined for each management zone.

**Note—**

Specific conditions apply to access licence dealings within these management zones.

## **5 Waters to which this Plan applies**

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including but not limited to:
  - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
  - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude waters in any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

## **6 Interpretation**

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.



- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

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

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

### **Note—**

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

## **8 State Water Management Outcomes Plan**

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter **the SWMOP**).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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

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

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

#### **10 Vision**

The vision for this Plan is to protect and enhance water dependent ecological processes for a sustainable environment for the social and economic benefit of current and future communities.

#### **11 Objectives**

The objectives of this Plan are to:

- (a) protect natural water levels in pools of creeks, rivers and wetlands during periods of no flow,
- (b) protect natural low flow,
- (c) protect or restore a proportion of moderate flows (freshes) and high flows,

- (d) maintain natural flow variability,
- (e) minimise the effects of weirs and other structures,
- (f) protect aquatic ecosystems,
- (g) protect access to water for basic rights,
- (h) give priority of access to local water utility, domestic and stock access licences over other access licences,
- (i) engender community ownership and acceptance of this Plan,
- (j) provide equitable access to water in accordance with the Act,
- (k) allow for trading of water access rights within this water source,
- (l) sustain viable water based industries, including the irrigation industry,
- (m) encourage water extraction to move from lower flows to higher flows,
- (n) encourage efficient water use practices,
- (o) preserve Aboriginal cultural heritage values across this water source that relate to water sharing management,
- (p) preserve water related European cultural heritage values, and
- (q) contribute to the achievement of water quality to support the environmental values of this water source.

**Note—**

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

## **12 Strategies**

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,

- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

### **13 Performance indicators**

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

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

**Note—**

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

## **Part 3 Basis for water sharing**

### **14 Basis for water sharing**

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

### **15 Climatic variability**

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

- (b) sharing of the flows that occur in this water source on a daily basis.

## 16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Castlereagh Valley Extraction Management Unit, and is shown on the map in Schedule 5.

## 17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) For Zone 1:

- (i) very low flow class at or less than 3.3 megalitres per day (hereafter **ML/day**),

**Note—**

3.3 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river. It corresponds to the estimated 56th percentile of all days flow.

- (ii) A class flows greater than 3.3 ML/day and at or less than 17.6 ML/day, and

- (iii) B class flows greater than 17.6 ML/day.

- (b) For Zone 2:

- (i) very low flow class at or less than 3.1 ML/day,

**Note—**

3.1 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river. It corresponds to the estimated 58th percentile of all days flow.

- (ii) A class flows greater than 3.1 ML/day and at or less than 20.4 ML/day, and

- (iii) B class flows greater than 20.4 ML/day.

- (c) For Zone 3:

- (i) very low flow class at or less than 2.4 ML/day,

**Note—**

2.4 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river.

- (ii) A class flows greater than 2.4 ML/day and at or less than 8.2 ML/day, and

- (iii) B class flows greater than 8.2 ML/day.

- (d) For Zone 4:

- (i) very low flow class at or less than 3.3 ML/day,

**Note—**

3.3 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river. It corresponds to the estimated 80th percentile of all days flow.

- (ii) A class flows greater than 3.3 ML/day and at or less than 17.8 ML/day, and

- (iii) B class flows greater than 17.8 ML/day.

- (e) For Zone 5:

- (i) very low flow class at or less than 1.6 ML/day,

**Note—**

1.6 ML/day is referred to as the cease to pump on a falling river and the commence to pump on a rising river. It corresponds to the estimated 94th percentile of all days flow.

- (ii) A class flows greater than 1.6 ML/day and at or less than 9.9 ML/day, and

- (iii) B class flows greater than 9.9 ML/day.

- (f) This Plan does not establish flow classes for Zone 6.

**Note—**

All water supply works located in Zone 6 are subject to the condition stated in clauses 22 and 68 (d) which only allows water to be extracted where there is a visible flow in the river in the downstream vicinity of the water supply work.

**Note—**

The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

**Note—**

This Plan allows for a C class to be established in Zones 1 to 5 during its term under the provisions of clause 75.

## 18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flow at the flow reference points of each management zone, as shown on the map in Schedule 2.

**Note—**

There is no flow reference point established for Zone 6 as shown on the map in Schedule 2, as this Plan does not establish flow classes or total daily extraction limits for this Zone.

## 19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at flow gauging devices, correlated to the flow reference points established in clause 18.

## Part 4 Environmental water provisions

### 20 Environmental water provisions

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

### 21 Planned environmental water

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

(a) In Zone 1:

(i) in very low flows, the flow occurring in this zone minus 0.12 ML/day, minus the very low flow access permitted under clause 62 of this plan,

**Note—**

0.12 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 1.

(ii) in A class flows, the flow occurring in this zone minus 9.52 ML/day, and

**Note—**

9.52 ML/day is the amount of water estimated at the commencement of the Plan for A class total daily extraction limit and basic landholder rights in Zone 1.

(iii) in B class flows, the flow occurring in this zone minus 14.12 ML/day.

**Note—**

14.12 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights in Zone 1.

(b) In Zone 2:

(i) in very low flows, the flow occurring in this zone minus 0.72 ML/day, minus the very low flow access permitted under clause 62 of this plan,

**Note—**

0.72 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 2.

(ii) in A class flows, the flow occurring in this zone minus 12.02 ML/day, and

**Note—**

12.02 ML/day is the amount of water estimated at the commencement of the Plan for A class total daily extraction limit and basic landholder rights in Zone 2.

(iii) in B class flows, the flow occurring in this zone minus 17.92 ML/day.

**Note—**

17.92 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights in Zone 2.

(c) In Zone 3:

- (i) in very low flows, the flow occurring in this zone minus 0.19 ML/day minus the very low flow access permitted under clause 62 of this plan,

**Note—**

0.19 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 3, and clause 62 establishes a review which may determine 0.2 ML/day as the daily extraction limit available to access licences.

- (ii) in A class flows, the flow occurring in this zone minus 4.39 ML/day, and

**Note—**

4.39 ML/day is the amount of water estimated at the commencement of the Plan for A class total daily extraction limit and basic landholder rights in Zone 3.

- (iii) in B class flows, the flow occurring in this zone minus 5.59 ML/day.

**Note—**

5.59 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights in Zone 3.

(d) In Zone 4:

- (i) in very low flows, the flow occurring in this zone minus 0.33 ML/day, minus the very low flow access permitted under clause 62 of this plan,

**Note—**

0.33 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 4.

- (ii) in A class flows, the flow occurring in this zone minus 6.73 ML/day, and

**Note—**

6.73 ML/day is the amount of water estimated at the commencement of the Plan for A class total daily extraction limit and basic landholder rights in Zone 4.

- (iii) in B class flows, the flow occurring in this zone minus 14.73 ML/day.

**Note—**

6.73 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights in Zone 4.

(e) In Zone 5:

- (i) in very low flows, the flow occurring in this zone minus 0.5 ML/day, minus the very low flow access permitted under clause 62 of this plan,

**Note—**

0.5 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 5.

- (ii) in A class flows, the flow occurring in this zone minus 6.0 ML/day, and

**Note—**

6.0 ML/day is the amount of water estimated at the commencement of the Plan for A class total daily extraction limit and basic landholder rights in Zone 5.

(iii) in B class flows, the flow occurring in this zone minus 8.5 ML/day.

**Note—**

8.5 ML/day is the amount of water estimated at the commencement of the Plan for B class total daily extraction limit and basic landholder rights in Zone 5.

(f) In Zone 6, the flow occurring in this zone minus 2.14 ML/day and minus the total extraction under all access licences in this zone.

**Note—**

2.14 ML/day is the amount of water estimated at the commencement of the Plan for basic landholder rights in Zone 6.

(2) Planned environmental water is maintained as follows:

(a) In very low flows:

(i) the holders of access licences, except those listed in Schedules 6 and 7, are not permitted any access in Zones 1 to 5,

(ii) persons exercising domestic and stock and native title rights may take up to:

(1) 0.12 ML/day in Zone 1,

(2) 0.72 ML/day in Zone 2,

(3) 0.19 ML/day in Zone 3,

(4) 0.33 ML/day in Zone 4,

(5) 0.5 ML/day in Zone 5, and

(6) 2.14 ML/day in Zone 6.

**Note—**

The licence listed on Schedule 6 may access water in management zone 3 in the very low flow class in accordance with clause 62 (2) (d).

**Note—**

The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

(b) In both A class and B class flows:

(i) the holders of access licences have restricted access to water as specified in clause 45,



- (ii) persons exercising domestic and stock and native title rights may take water,
  - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.12 ML/day in Zone 1, 0.72 ML/day in Zone 2, 0.19 ML/day in Zone 3, 0.33 ML/day in Zone 4, 0.5 ML/day in Zone 5, and 2.14 ML/day in Zone 6, the access to water for access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class, and
  - (iv) the holders of unregulated river access licences have access to water only as specified in clauses 62 and 63.
- (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

**Note—**

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

**Note—**

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

## **22 Extraction by water supply work**

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river below and in the vicinity of the work.

## **23 Planned environmental water**

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

## **24 Adaptive environmental water**

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The Minister may grant an access licence in a water source to which this Plan applies if the licence is subject to an adaptive environmental water condition and arises through water savings in the system made in that water source as referred to in section 8C (1) of the Act.
- (2A) The Minister may change the category or subcategory of an access licence in a water source to which this Plan applies if the licence is subject to an adaptive environmental water condition that arises through water savings as referred to in section 8D of the Act.

- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

## **Part 5 Basic landholder rights**

### **25 Basic landholder rights**

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

**Note—**

The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

### **26 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 a total of 4 ML/day.
- (2) The provision for domestic and stock rights within each of the management zones are estimated to be as follows:
- (a) 0.12 ML/day in Zone 1,
  - (b) 0.72 ML/day in Zone 2,
  - (c) 0.19 ML/day in Zone 3,
  - (d) 0.33 ML/day in Zone 4,
  - (e) 0.5 ML/day in Zone 5, and
  - (f) 2.14 ML/day in Zone 6.
- (3) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

**Note—**

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

### **27 Native title rights**

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

**Note—**

Increase in use of native title rights may occur as a result of the granting of native title rights under the

Commonwealth's *Native Title Act 1993*.

## **28 Harvestable rights**

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

## **Part 6 Bulk access regime**

### **29 Bulk access regime**

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
  - (a) the environmental water provisions established under Part 4 of this Plan,
  - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
  - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
  - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
  - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
  - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
  - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
  - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
  - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

## **Part 7 Requirements for water under access licences**

### **30 Requirements for water under access licences**

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

**Note—**

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

### **31 Estimate of water requirements**

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 5,000 megalitres per year (hereafter **ML/yr**), distributed as follows:
  - (a) 920 ML/yr in Zone 1,
  - (b) 1950 ML/yr in Zone 2,
  - (c) 230 ML/yr in Zone 3,
  - (d) 745 ML/yr in Zone 4,
  - (e) 615 ML/yr in Zone 5, and
  - (f) 525 ML/yr in Zone 6.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be no runoff harvesting access licences in this water source.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
  - (a) the granting, surrender, cancellation or non-renewal of access licences, or
  - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

## **Part 8 Rules for granting access licences**

### **32 Rules for granting access licences**

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the

making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.

- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
- (a) local water utility access licences,

**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 a rapid growth in population.

- (b) domestic and stock access licences,
- (c) specific purpose access licences for which applications are provided for under the regulations in accordance with section 61 (1) (a) of the Act, or
- (d) unregulated river (Aboriginal cultural) access licences up to 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to an application for a new access licence arising from:
- (a) section 61 (1) (c), of the Act, where the right has been acquired by auction, tender or other open market process, or
- (b) an access licence dealing.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) Runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.
- (8) (Repealed)

## **Part 9 Limits to the availability of water**

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

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

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

### **34 Extraction management unit**

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

### **35 Long-term average extraction limit**

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

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified on licence conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in this Unit at the commencement of this Plan.

### **36 Variation of the long-term average extraction limit**

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

## **Division 2 Available water determinations**

### **37 Available water determinations**

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
  - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

#### **Note—**

A water accounting year is defined in clause 42 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive

environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,

- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), and excepting the initial available water determination made in accordance with subclause (d), the available water determination should not exceed 100% of the total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the

licence.

## **Part 10 Rules for managing access licences**

### **Division 1 General**

#### **38 Rules for managing access licences**

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

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

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

#### **39 Water allocation account management**

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

#### **40 Water allocation accounts**

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

**Note—**

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

**Note—**

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

#### **41 Accrual of water allocations**

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

#### **42 Annual accounting for water extraction**

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.



- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is 100% of the access licence share component.
- (5) In any one water accounting year water taken from this water source under an access licence may not exceed the volume in the water allocation account, subject to clause 43 (1).
- (6) A water allocation account shall remain at or above zero at all times.

#### **43 Three year accounting for water extraction**

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

### **Division 3 Sharing flows on a daily basis**

#### **44 Sharing flows on a daily basis**

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

#### 45 Total daily extraction limits

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

(a) Zone 1:

- (i) 9.4 ML/day for A class, and
- (ii) 14.0 ML/day for B class.

**Note—**

These flows represent 53% of the top of A class flows (which is at the 19th percentile) and 26% of the top of B class flows (which is at the 9th percentile) of all days flow.

(b) Zone 2:

- (i) 11.3 ML/day for A class, and
- (ii) 17.2 ML/day for B class.

**Note—**

These flows represent 55% of the top of A class flows (which is at the 15th percentile) and 28% of the top of B class (which is at the 8th percentile) of all days flow.

(c) Zone 3:

- (i) for the very low flow class, 0.2 ML/day in accordance with clause 62,
- (ii) 4.2 ML/day for A class, and
- (iii) 5.4 ML/day for B class.

**Note—**

These flows represent 51% of the top of A class flows and 9% of the top of B class of all days flow.

(d) Zone 4:

- (i) 6.4 ML/day for A class, and
- (ii) 14.4 ML/day for B class.

**Note—**

These flows represent 36% of the top of A class flows (which is at the 43rd percentile) and 14% of the top of B class (which is at the 15th percentile) of all days flow.

(e) Zone 5:

- (i) 5.5 ML/day for A class, and

- (ii) 8.0 ML/day for B class.

**Note—**

These flows represent 56% of the top of A class flows (which is at the 40th percentile) and 14% of the top of B class flows (which is at the 11th percentile) of all days flow.

- (f) At the commencement of this Plan, TDELs have not been established for Zone 6.

**Note—**

All water supply works located in Zone 6 are subject to the condition stated in clauses 22 and 68 (d) which only allow water to be extracted where there is a visible flow in the river in the downstream vicinity of the water supply work.

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

**Note—**

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

#### **46 Initial assignment of the TDEL to categories of access licence**

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Zone 1:

- (i) Domestic and stock access licences:

- (1) 0 ML/day for A class, and
- (2) 0 ML/day for B class.

- (ii) Local water utility access licences:

- (1) 3.5 ML/day in A class, and
- (2) 3.5 ML/day in B class.

- (ii) Unregulated river access licences:

- (1) 5.9 ML/day in A class, and
- (2) 10.5 ML/day of B class.

- (b) Zone 2:

- (i) Domestic and stock access licences:

- (1) 0 ML/day for A class, and
- (2) 0 ML/day for B class.
- (ii) Local water utility access licences:
  - (1) 0 ML/day in A class, and
  - (2) 0 ML/day in B class.
- (iii) Unregulated river access licences:
  - (1) 11.3 ML/day in A class, and
  - (2) 17.2 ML/day of B class.
- (c) Zone 3:
  - (i) Domestic and stock access licences:
    - (1) 0.1 ML/day in A class, and
    - (2) 0.1 ML/day in B class.
  - (ii) Local water utility access licences:
    - (1) 0 ML/day in A class, and
    - (2) 0 ML/day in B class.
  - (iii) Unregulated river access licences:
    - (1) for the licence listed on Schedule 6, 0.2 ML/day of the very low flow class in accordance with clause 62,
    - (2) 4.1 ML/day in A class, and
    - (3) 5.3 ML/day of B class.
- (d) Zone 4:
  - (i) Domestic and stock access licences:
    - (1) 0 ML/day in A class, and
    - (2) 0 ML/day in B class.
  - (ii) Local water utility access licences:
    - (1) 1 ML/day in A class, and
    - (2) 1 ML/day in B class.

(iii) Unregulated river access licences:

- (1) 5.4 ML/day in A class, and
- (2) 13.4 ML/day of B class.

(e) Zone 5:

(i) Domestic and stock access licences:

- (1) 0 ML/day in A class, and
- (2) 0 ML/day in B class.

(ii) Local water utility access licences:

- (1) 0 ML/day in A class, and
- (2) 0 ML/day in B class.

(iii) unregulated river access licences:

- (1) 5.5 ML/day in A class, and
- (2) 8.0 ML/day of B class.

#### **47 Unassigned TDEL**

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

**Note—**

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

#### **48 Daily extraction limits for individual access licence holders**

- (1) Each access licence in a management zone requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL for that management zone, as specified in clause 46 as its share component bears to all the share components of licences of that category in that management zone.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

#### **49 Granting of unassigned TDEL**

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
  - (a) where they are applied for as part of a new access licence application,

- (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
  - (c) to existing access licences for the purpose of pumping into a farm dam if:
    - (i) the purpose of the additional IDEL sought is established by the proponent,
    - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
    - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

## **50 Adjustment to TDELS and IDELS**

- (1) Where IDELs are assigned under clause 49 the unassigned TDEL in the specified management zone is reduced accordingly, and the TDEL assigned to the appropriate licence category in the management zone specified in clause 46 is increased accordingly.
- (2) Pursuant to section 45 (1) (b) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
- (a) first the unassigned TDEL specified in clause 47 for that management zone, then, if necessary, the TDEL for unregulated river access licences in clauses 46 for that management zone shall be diminished to allow these additional basic landholder rights to be met, and
  - (b) the IDELs of each unregulated river access licence in the specified management zone will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 45 (1) (b) of the Act, if any unassigned TDEL cannot meet either:
- (a) the IDEL requirements of applicants for new access licences for domestic and stock access and unregulated river (Aboriginal cultural) access, or
  - (b) a local water utility's IDEL requirements in a specified management zone resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,
- then the TDEL for unregulated river access licences in that management zone in clause 46 will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence in the specified management zone will then be reduced to comply with this diminished TDEL,

- (5) Any adjustment to unregulated river access licence IDELS arising from this clause will be done at intervals of no greater than 5 years,
- (6) Where in accordance with clause 75, the Minister establishes C class TDELs, and, an access licence holder applies to surrender A or B class IDELS in exchange for C class IDELS in a specified management zone:
  - (a) the unassigned TDEL in C class in the specified management zone in clause 47 shall be reduced by the amount of C class IDEL issued,
  - (b) the A or B class TDELs in the specified management zone in clause 45 shall be reduced by the amount of A or B class IDEL surrendered, and
  - (c) the A or B class TDELs for unregulated river access licences in the specified management zone in clause 46 shall be reduced accordingly.

**Note—**

If C class TDELs are recommended following the review established at clause 75, unassigned C class TDEL will be created, with the volume created being identified at clause 47.

- (7) If water that, pursuant to an access licence:
  - (a) is committed as adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category in the specified management zone will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
  - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category in the specified management zone will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

**51 Administrative arrangements for managing access to daily flows**

- (1) Notwithstanding the forgoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELS.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
  - (a) all access licences within a management zone with IDELS shall be made part of a group maintained by the Minister, and
  - (b) access licences within a management zone with IDELS will be assessed as a whole against their combined IDELS.
- (3) At any time when subclause (2) above does not apply:
  - (a) access licence holders within a management zone may make a request to form a

group for their access licences,

- (b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the IDEL on the subject access licences, and
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.

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

- (a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (b) where it has been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
- (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the IDELs on the subject access licences,
- (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group, and
- (e) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

**Note—**

The Minister may allow an access licence that is linked to a water supply works approval that nominates more than one management zone to be placed in more than one approved group. The IDEL of access licences in this category may only be accessed in any one management zone on any given day.

## **52 Infrastructure failure**

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

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

**Note—**

Infrastructure is defined in the dictionary.

**Note—**



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

## **Part 11 Access licence dealing rules**

### **53 Access licence dealing rules**

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

**Note—**

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

**Note—**

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

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

- (1) This clause applies to any relevant dealings under sections 71Q, 71S and 71W of the Act, and with respect to water allocation assignments within this water source under section 71T of the Act.
- (2) Dealings are prohibited under this clause if:
  - (a) any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59, or

**Note—**

Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

- (b) the dealing would result in the access licence extraction component nominating a work in a different management zone, unless provided for in subclause (3), or
    - (c) the dealing would result in an access licence extraction component located outside of Shawns Creek nominating a work in Shawns Creek (Shawns Creek is shown on the map in Schedule 2).
- (3) Subject to any review in accordance with clause 75 and after year 5 of this Plan, if

there is remaining unassigned C class TDEL in a management zone, an access licence holder may apply to specify additional C class IDELs in return for surrender of A class or B class IDELs, even if the dealing results in the access licence extraction component nominating a work in a different management zone, as long as the dealing is subject to conversion factors established by the Minister pursuant to clause 75.

**55 Rules for access licence dealings which alter the times, rates or circumstances specified access licence extraction components**

- (1) Following an amendment to this Plan in accordance with clause 75, a licence holder may apply under section 71S of the Act to alter their access licence extraction component to specify additional C class IDELs, in return for the surrender of A class or B class IDELs.
- (2) A dealing in accordance with subclause (1):
  - (a) can only occur in management zones 1 to 5,
  - (b) can occur within the same management zone from year 1 to 5 of the Plan and are subject to the conversion factors established by the Minister pursuant to clause 75, and
  - (c) can occur between management zones 1, 2, 3, 4 and 5 after year 5 subject to the conversion factors established by the Minister.
- (3) Dealings that assign water allocations between access licences inside this water source, are permitted.

**56 Rules for change of water source**

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

**Note—**

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

- (2) Dealing under section 71R of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued only if the new access licence issued is within this Unit and the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source under this dealing only if the access licence dealing rules in the other water source permit such a dealing and:

- (a) the access licence cancelled is within this Unit, or
  - (b) the access licence cancelled is within the Macquarie regulated river water source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled access licence share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71Z of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

### **57 Rules for conversion of access licence category**

- (1) This clause relates to dealings under section 71O of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
- (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
  - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
  - (c) the conversion is from a regulated river access licence to unregulated river access licence.

#### **Note—**

This will occur directly following a dealing under section 71R of the Act that changes the water source to which the access licence applies.

- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71Z of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

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

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

### **59 Rules for water allocation assignments between water sources**

- (1) This clause relates to dealings under section 71T of the Act, in relation to water

allocation assignments between water sources.

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

**Note—**

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

**60 Rules for interstate assignment of water allocations**

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

**Part 12 Mandatory conditions**

**61 Mandatory conditions on access licences**

- (1) This Part is made in accordance with section 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the following:
  - (a) the specification of the share component of the access licence,
  - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
  - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
  - (d) the requirement that extraction under the access licence will be subject to water allocation account management rules established in Part 10 Division 2 of this Plan,
  - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
  - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and

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

## **62 Very low flow access conditions**

- (1) Subject to clause 22 and subclause (2) (d) and notwithstanding clause 63 (c) (ii), access licences listed in Schedule 6 are allowed access to very low flows in Zone 3 until the completion of year 5 of this Plan.
- (2) Access to very low flows identified in subclause (1) is subject to the following conditions:
  - (a) access to the very low flow class is permitted during years 1 to 5 of this Plan,
  - (b) no access to the very low flow class is permitted during years 6 to 10 of this Plan,
  - (c) the volume of water that may be extracted is limited to the TDEL specified in clauses 45 (1) (c) (i) and 46 (c) (iii) (1) for Zone 3, and
  - (d) if the access licence on Schedule 6 lapses, is cancelled or is assigned elsewhere, then it will be removed from the schedule.
- (3) Notwithstanding any cease to pump conditions established on the licence, during periods of very low flows, holders of access licences listed on Schedule 7 may continue to access water to comply with the requirements of the Food Production (Safety) Act or the Prevention of Cruelty to Animals Act for the following purposes:
  - (a) fruit and vegetable washing,
  - (b) cleaning of dairy plant and equipment for the purpose of hygiene,
  - (c) poultry watering and misting, and
  - (d) cleaning of enclosures used for intensive animal production for the purposes of hygiene.
- (4) The maximum daily volume that can be extracted under subclause (3) will be the minimum required to satisfy the purposes in that subclause, will be individually assessed and specified on each access licence within 12 months of the commencement of this Plan, will not exceed 20 kilolitres per day, and will not be increased.
- (5) Upon written request by the holder of an access licence, the Minister may add a licence to Schedule 7, but only if the licence meets the purpose requirements established in subclause (3), and the purpose existed prior to 1 July 2004.
- (6) A licence will be removed from Schedule 7 if:
  - (a) any access licence dealing results in the water being extracted from a different location,

- (b) an alternative water supply is obtained, that satisfies the requirements of subclause (3), or
  - (c) the licence is surrendered, cancelled, or not renewed.
- (7) Notwithstanding subclauses (3) to (6), extraction of water by an approved water supply work is only permitted if there is visible flow in the river in the vicinity of the work.
- (8) An assessment of the continuing requirements for access under subclauses (3) to (7) will be undertaken before the end of the Plan and Schedule 7 amended or deleted at the end of the Plan, if such a review determines that this concessional access is no longer required.
- (9) The assessment made under subclause (8) will be undertaken for the Plan as a whole, and for each individual licence on the Schedule.

### **63 Unregulated river access licences**

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

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component (if specified), unless otherwise authorised by a registered group,
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (c) notwithstanding all other rights and conditions, extraction of water from a river by a water supply work linked to an unregulated river access licence is not permitted:
  - (i) in Zone 1, at or below 7.1 ML/day,

**Note—**

The 7.1 ML/day in subclause (c) (i) is referred to as the cease to pump on a falling river and the commence to pump on a rising river for unregulated river access licences. It corresponds to the estimated 34th percentile of all days.

- (ii) in Zone 2, at or below 3.2 ML/day,

**Note—**

The 3.2 ML/day in subclause (c) (ii) is referred to as the cease to pump on a falling river and the commence to pump on a rising river for unregulated river access licences. It corresponds to the estimated 57th percentile of all days.

- (iii) in Zone 3, at or below 3.0 ML/day, unless the access licence is listed on Schedule 6,

**Note—**

The 3.0 ML/day in subclause (c) (iii) is referred to as the cease to pump on a falling river and the commence to pump on a rising river for unregulated river access licences.

(iv) in Zone 4, at or below 4.3 ML/day, and

**Note—**

The 4.3 ML/day in subclause (c) (iv) is referred to as the cease to pump on a falling river and the commence to pump on a rising river for unregulated river access licences. It corresponds to the estimated 74th percentile of all days.

(v) in Zone 5, at or below 1.9 ML/day.

**Note—**

The 1.9 ML/day in subclause (c) (v) is referred to as the cease to pump on a falling river and the commence to pump on a rising river for unregulated river access licences. It corresponds to the estimated 93rd percentile.

#### **64 Local water utility access licences**

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

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

#### **65 Domestic and stock access licences**

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

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component (if specified), unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff

harvesting dam.

#### **66 Runoff harvesting access licences**

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

#### **67 Unregulated river (Aboriginal cultural) access licences**

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken by Aboriginal persons or 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,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component (if specified), unless otherwise authorised by a registered group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

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

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

- (a) flow measurement devices,
  - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
  - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with



an IDEL,

- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work which is not permitted if there is no visible flow in the river below and in the vicinity of the work, and
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence.

## **Part 13 Granting and amending water supply works approvals**

### **69 Granting and amending water supply works approvals**

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

### **70 Runoff harvesting dams**

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

#### **Note—**

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

### **71 In-river dams**

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

#### **Note—**

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

## **Part 14 Monitoring and reporting**

### **72 Monitoring and reporting of performance indicators**

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

**Note—**

Review and Audit of this Plan

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

When undertaking this review the Natural Resources Commission is required to call for public submissions. The Commission will take into consideration any submission received as well as any other relevant State-wide or regional government policies or agreements that apply to the Local Land Services region.

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

**Note—**

Implementation Program

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

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

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

## **Part 15 Amendment of this Plan**

### **73 Amendment of this Plan**

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

### **74 Amendment of very low flow provisions**

- (1) The Minister may, under section 45 (1) (b) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of A class established in clause 17, and the cease to pump levels for unregulated river access licences in clause 63 (c), following field verification.
- (2) Any variation made under subclause (1) should not result in:
  - (a) the very low flow level in:
    - (i) Zone 1 being less than 2 or greater than 4 ML/day,
    - (ii) Zone 2 being less than 2 or greater than 4 ML/day,
    - (iii) Zone 3 being less than 2 or greater than 3 ML/day,
    - (iv) Zone 4 being less than 2 or greater than 4 ML/day, and

- (v) Zone 5 being less than 1 or greater than 3 ML/day, and
- (b) the cease to pump levels for unregulated river access licences in clause 63 (c) in:
  - (i) Zone 1 being less than 6 or greater than 8 ML/day,
  - (ii) Zone 2 being less than 3 or greater than 5 ML/day,
  - (iii) Zone 3 being less than 2 or greater than 4 ML/day,
  - (iv) Zone 4 being less than 3 or greater than 6 ML/day, and
  - (v) Zone 5 being less than 1 or greater than 3 ML/day.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the following objectives of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) are met:
  - (a) objective 1—to protect water levels in natural river pools and wetlands during periods of no flow, and
  - (b) objective 2—to protect natural low flows.
- (5) In undertaking the field verification the Minister should:
  - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
  - (b) prepare a report documenting:
    - (i) the methodology adopted,
    - (ii) the hypotheses tested,
    - (iii) the field results and conclusions in terms of the degree to which the objectives in subclause (4) are met,
    - (iv) the flow level recommended to meet the objectives in subclause (4), and
    - (v) the socio-economic impacts of recommended changes to the flow level.

## **75 Amendment of high flow provisions**

- (1) The Minister may, under section 45 (1) (b) of the Act and by notice published in the NSW Government Gazette and following verification of the demand for high flow C class extraction in Zones 1 to 5:

- (a) establish C class flow categories and thresholds in clause 17,
  - (b) amend clause 21 to allow for planned environmental water to be established in C class,
  - (c) establish TDELS for C class in Zones 1 to 5 in clause 44,
  - (d) assign TDELS for C class to categories of access licence in Zones 1 to 5 in clause 45,
  - (e) vary the unassigned TDEL in clause 47,
  - (f) recommend conversion factors for the surrender of A class IDEL in exchange for C class IDEL at clause 55, and
  - (g) recommend conversion factors for the surrender of B class IDEL in exchange for C class IDEL at clause 55.
- (2) The verification process identified in subclause (1) should:
- (a) only assess the demand for C class extraction by access licences that exist at the commencement of this Plan, and
  - (b) assess the degree to which objective 3 (to protect or restore a portion of freshes and high flows) of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) is met.
- (3) Any establishment of C class under subclause (1) (a) should not result in the B class/C class flow threshold being:
- (a) less than 32 ML/day or greater than 64 ML/day in Zone 1,
  - (b) less than 38 ML/day or greater than 74 ML/day in Zone 2,
  - (c) less than 14 ML/day or greater than 74 ML/day in Zone 3,
  - (d) less than 33 ML/day or greater than 121 ML/day in Zone 4, and
  - (e) less than 18 ML/day or greater than 68 ML/day in Zone 5.
- (4) Any establishment of TDELS for C class under subclause (1) (c) should not result in C class TDELS being:
- (a) less than 14 ML/day or greater than 24 ML/day in Zone 1,
  - (b) less than 17 ML/day or greater than 79 ML/day in Zone 2,
  - (c) less than 5 ML/day or greater than 25 ML/day in Zone 3,
  - (d) less than 14 ML/day or greater than 47 ML/day in Zone 4, and

- (e) less than 8 ML/day or greater than 53 ML/day in Zone 5.
- (5) The Minister should cause the verification of the demand for C class extraction in subclause (1) to be undertaken at the same time as the review of this Plan under section 43 (2) of the Act.
- (6) In undertaking the verification the Minister should:
  - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
  - (b) prepare a report documenting:
    - (i) the methodology adopted,
    - (ii) the hypotheses tested,
    - (iii) the results and conclusions in terms of the degree to which the objective in subclause (2) is met,
    - (iv) how any C class flow thresholds and/or C class TDELS recommended will meet the objective in subclause (2), and
    - (v) the socio-economic impacts of recommended changes to the flow level.

## **76 Review of field verification**

- (1) The Minister should seek advice from a review body on the field verification reports specified in clause 74 (5) (b) or 75 (8) (b) before varying this Plan in accordance with clauses 74 (1) and 75 (1), if the field verification reports recommend a variation in the very low flow established in clause 17 or the establishment of C class TDEL.
- (2) This review body may be:
  - (a) a water management committee with water sharing responsibilities for this water source, or
  - (b) Local Land Services, or
  - (c) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee or Local Land Services referenced at subclause (2) (a) or (b).
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels or the establishment of C class extraction.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

## 77 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to extraction limits of this Plan.

## 78 Amendment relating to planned environmental water

- (1) The Minister may amend this Plan to provide for the recovery of planned environmental water as follows:
  - (a) the recovery is only to apply where the Minister has cancelled an access licence held by the Minister in accordance with section 8A of the Act,
  - (b) the amount of additional water to be provided as planned environmental water is to be equivalent to the annual average extraction of water under the cancelled licence over the long-term,
  - (c) the average annual long-term availability of water for the remaining access licences that relate to the water source concerned is to be reduced by the average annual long-term extraction of water under the cancelled licence.
- (2) The Minister may amend this Plan to specify the purposes for which planned environmental water committed under section 8A of the Act is to be used.

## 79 Amendment of Plan relating to floodplain harvesting

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

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

## Dictionary

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

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

### Note—

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

**Cap** is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

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

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

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

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

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

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

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

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

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

**infrastructure** includes, but is not limited to, a:

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

**in-river dam** is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined

in the Order made under section 5 of the [Water Act 1912](#) in relation to the definition of a “river” gazetted 23 March 2001. See also **farm dam** and **runoff harvesting dam**.

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

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

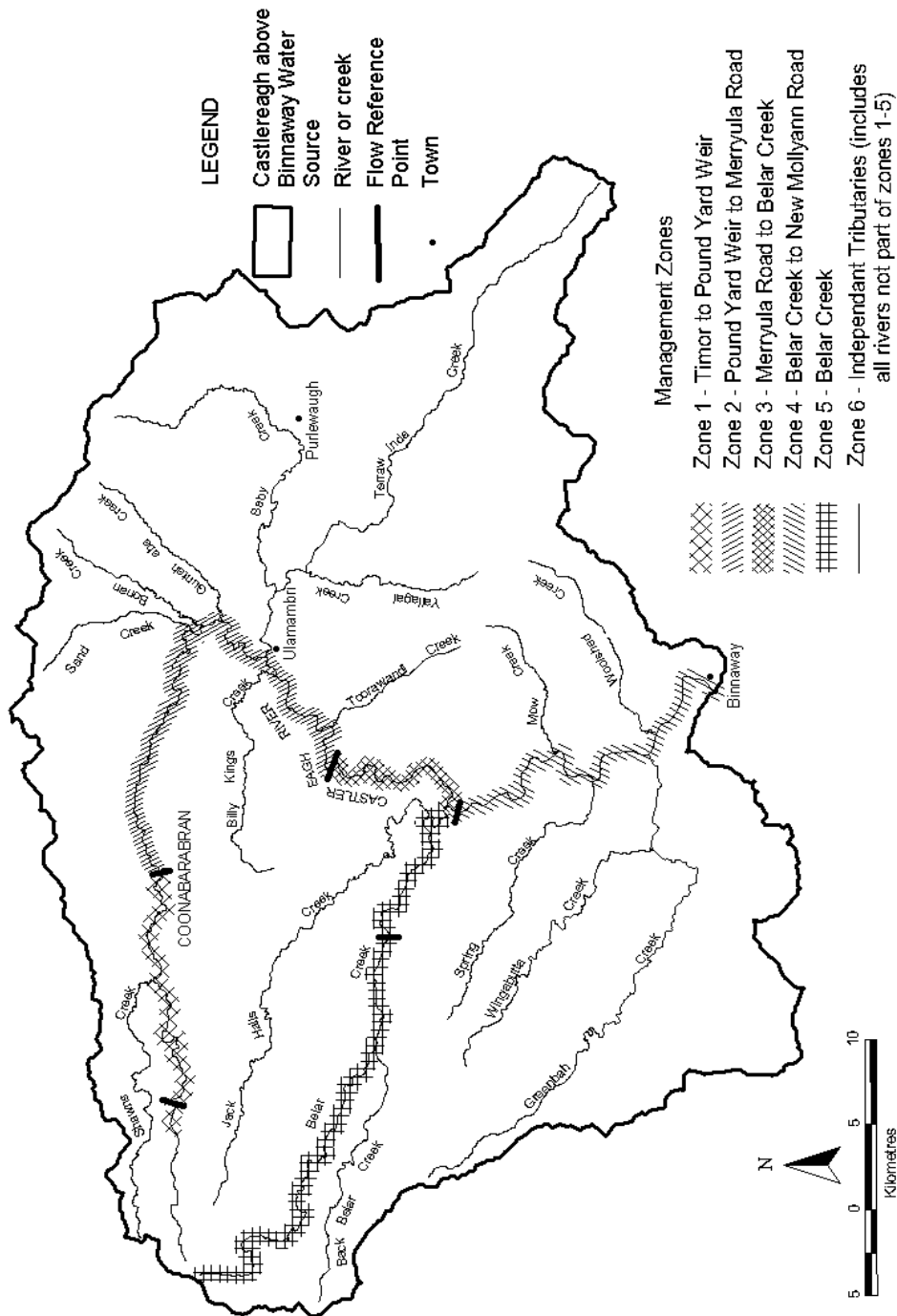
**Note—**

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

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



## Schedule 2 Castlereagh River above Binnaway Water Source



## Schedule 3 Rivers in the Castlereagh River above Binnaway Water Source

This water source includes:

Baby Creek

Back Belar Creek

Belar Creek	Billy Kings Creek
Bittingtons Spring Gully	Black Gully
Black Swamp	Bonan Creek
Boogadah Gully	Bow Lane Creek
Box Ridge Creek	Buckleys Creek
Bungabah Creek	Bushranger Creek
Chinamans Gully	Colwells Gully
Cutlers Camp Creek	Deadmans Gully
Dog Trap Creek	Flaggy Creek
Fox Creek	Front Creek
Greenbah Creek	Gundi Creek
Guntahaba Creek	Hungerford Swamp
Jack Halls Creek	Jews Gully
Kamilaroi Waterholes	Long Gully
Merryula Creek	Mobara Creek
Mountain Creek	Mow Creek
Myall Plains Creek	Nandi Creek
Pipe Clay Creek	Popagundi Creek
Saigus Gully	Salty Creek
Sand Creek	Sandy Creek
Sawpit Gully	Shawns Creek
Spring Creek	Stanley Creek
Tenandra Creek	Terrawinda Creek
Toorawandi Creek	Urabribble Creek
Washpool Creek	Wingabutta Creek
Woolshed Creek	Yallagal Creek

## **Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan**

### **Levels of assessed contribution:**

FULL—contributes to target in full

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

PARTIAL—goes some way to contributing to the target

LOW—only small degree of contribution to the target

Relevant target	Level of contribution	Comments
<b>Target 1b</b> Extractions in Murray-Darling Basin's unregulated rivers limited to the Murray Darling Basin Ministerial Council Cap level	FULL	<ul style="list-style-type: none"> <li>This Plan sets out the basis for the extraction limit for Castlereagh valley unregulated system.</li> <li>The extraction limit is clearly defined as the surveyed average of usage during the period 1993/94–1999/2000.</li> <li>Rules set out in Part 9 of this Plan.</li> </ul>
<b>Target 1f</b> Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> <li>Rules set out in Part 9 of this Plan.</li> <li>Provides a low level of protection to very low flows at the commencement of this Plan, but the field verification provisions permit this it increase if warranted.</li> <li>This Plan puts in place daily extraction limits to improve protection of low and moderate flows.</li> </ul>
<b>Target 2</b> All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> <li>Access to high flows is at a B class rate from commencement, however a review clause allows the establishment of C class following the surrender of A or B Class TDEs.</li> <li>3 listed threatened fish species are likely to occur in the Castlereagh (silver perch, purple spotted gudgeon &amp; olive perchlet) but no recovery plans in place, therefore no specific provisions in this Plan.</li> <li>This Plan provides specific protection (no dealings or assignments into Shawns Creek) for Shawns Creek which supports numerous threatened and at risk species.</li> </ul>

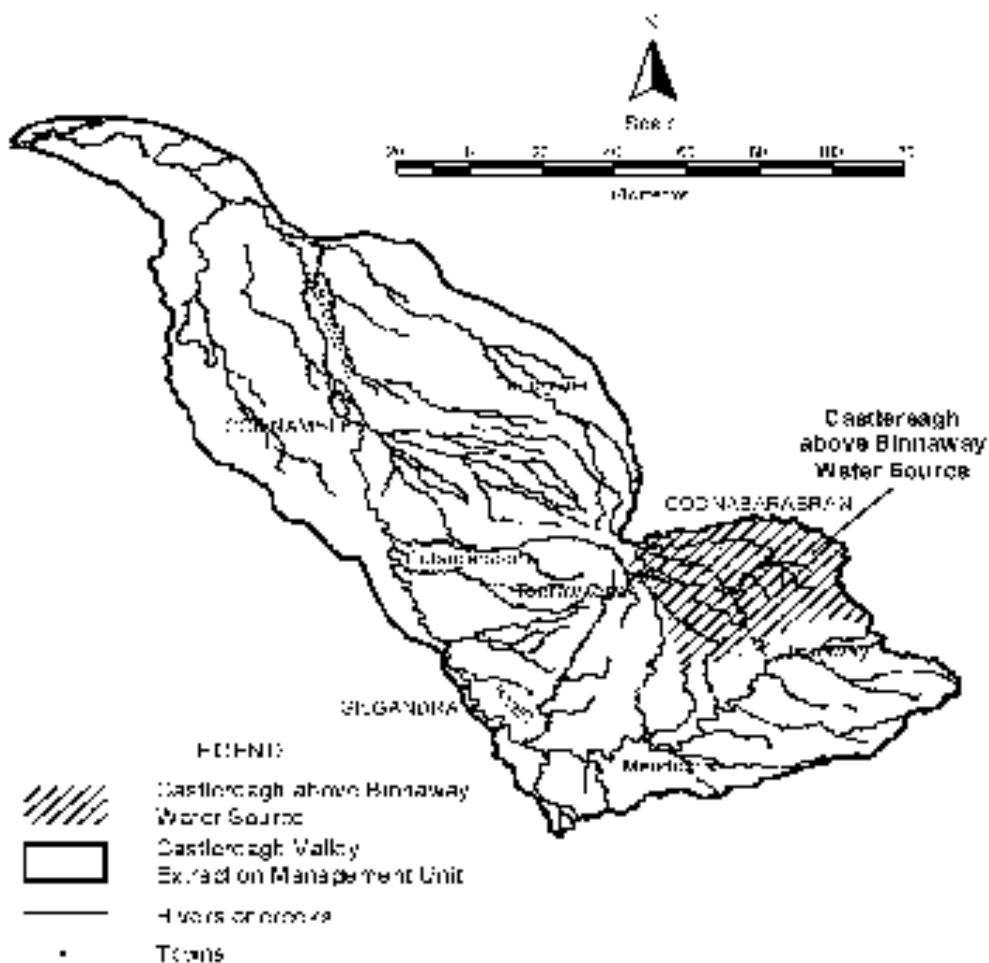
<p><b>Target 4a</b> Wherever the frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• A class 53% of the flow is protected which is greater than 10% improvement.</li> <li>• B class 65% of the flow is protected.</li> <li>• There is no C class TDEL at the commencement of this Plan.</li> <li>• A review clause in this Plan allows for the establishment of C class TDEL following the surrender of A or B class TDEL.</li> <li>• Rules set out in Part 10 of this Plan.</li> </ul>
<p><b>Target 4b</b> Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• Cease to pump (CTP) levels protect flows below 3.3 ML/day in Zones 1 and 4, below 3.1 ML/day in Zone 2, below 2.4 ML/day in Zone 3, and below 1.6 ML/day in Zone 5 for all days flow from unregulated river access licences, domestic and stock and local water utility access licences.</li> <li>• Preliminary field assessment indicated that 3 ML/day would be adequate to connect pools and riffles (50 mm flow above cease to flow at Hidden Valley gauge site)</li> <li>• This Plan provides for field verification and adjustment of the CTP for each Zone.</li> <li>• Rules set out in Parts 3, 4 and 10 of this Plan.</li> </ul>
<p><b>Target 5</b> Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan recognises the annual volumetric entitlements and establishes daily extraction limits for distribution to individual licensees.</li> <li>• Rules set out in Part 10 of this Plan.</li> </ul>
<p><b>Target 6b</b> A pathway for reducing the share components to 200 percent of the long-term average annual extraction limit to be established not later than the end of the term of the SWMOP</p>	<p>NIL</p>	<ul style="list-style-type: none"> <li>• Total licensed share components for the Castlereagh Valley Extraction Management Unit will exceed 200% of extraction limit for this Unit.</li> </ul>

<p><b>Target 7</b> Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• The Government has established other mechanisms to address this target.</li> <li>• This Plan provides for the issuing of unregulated river access licences for Aboriginal cultural purposes and for adjusting the assigned TDEL to provide an IDEL where such licences are issued.</li> <li>• This Plan provides market opportunity in this water source.</li> </ul>
<p><b>Target 8</b> Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan establishes TDELs across the whole water source.</li> </ul>
<p><b>Target 12</b> Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• Estimates of domestic and stock basic landholder rights have been provided for each management zone.</li> <li>• Cease to pump level will protect flows for domestic and stock, and TDELs also explicitly provide for domestic and stock requirements.</li> </ul>
<p><b>Target 13</b> The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• No Aboriginal community representatives were involved in development of this Plan (although an invitation was extended).</li> </ul>
<p><b>Target 14</b> Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance</li> <li>• This Plan does provide a level of environmental protection, which should assist in protecting Aboriginal values.</li> </ul>
<p><b>Target 16a</b> All share components of access licences tradeable</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• Part 11 of this Plan provides for trading of share components or IDELs.</li> </ul>
<p><b>Target 16c</b> Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan establishes a conversion factor of 1:1 for trading between water sources in the Castlereagh Valley Extraction Management Unit.</li> </ul>

<p><b>Target 16d</b> Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan does not impose reduction factors.</li> </ul>
<p><b>Target 16e</b> Any unassigned access rights identified and clear mechanisms established for their future assignment</p>	<p>FULL</p>	<ul style="list-style-type: none"> <li>• This Plan provides for assigning of unassigned TDELS.</li> <li>• Dealings in access licence share components may take place within this water source.</li> </ul>
<p><b>Target 16f</b> Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit</p>	<p>HIGH</p>	<ul style="list-style-type: none"> <li>• Dealings in unregulated river access licence IDELS can take place within management zones, but not between management zones in this water source.</li> </ul>
<p><b>Target 35</b> All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries</p>	<p>PARTIAL</p>	<ul style="list-style-type: none"> <li>• This Plan includes a water quality objective.</li> </ul>

## Schedule 5 Castlereagh Valley Extraction Management Unit

This Unit excludes any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.



**Schedule 6 Access licences with access to very low flows under subclauses 62 (1)-(2) of this plan**

The access licences with the following numbers have access to very low flows in accordance with subclauses 62 (1)-(2) of this plan:

80SL051581 owned by Baiada Pty Ltd.

**Note—**

The access licence details in this Schedule may change during the period of this Plan. The District Office of the Department of Infrastructure, Planning and Natural Resources, shown in Appendix 2, should be contacted for a current list.

**Schedule 7 Access licences with access to very low flows under subclauses 62 (3)-(8) of this plan**

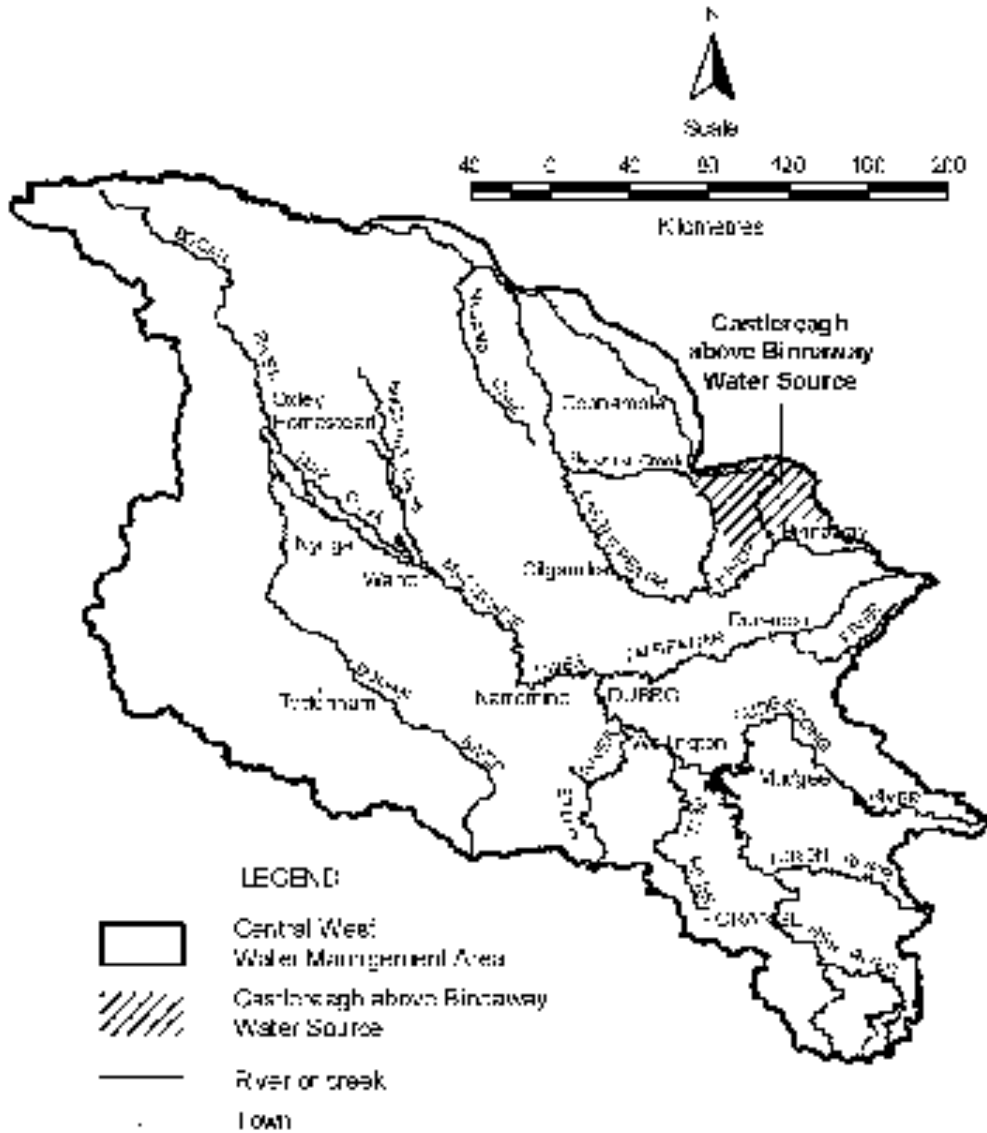
The access licences with the following numbers have access to very low flows in accordance with subclauses 62 (3)-(8) of this plan:

No licences at this time.

**Note—**

The access licence details in this Schedule may change during the period of this Plan. The District Office of the Department of Infrastructure, Planning and Natural Resources, shown in Appendix 2, should be contacted for a current list.

## Appendix 1 Central West Water Management Area



## Appendix 2 Location of maps

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

District Office  
Department of Land and Water Conservation  
56 Cassillis Street  
COONABARABRAN NSW 2357

District Office  
Department of Land and Water Conservation



209 Cobra Street  
DUBBO NSW 2830

## Appendix 3 Performance indicators

### Performance indicators for the Castlereagh River above Binnaway Water Sharing Plan

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

<p>(b) Change in moderate to high flows.</p>	<p>11 (c) 11 (f)</p>	<ul style="list-style-type: none"> <li>• Assessment of change in flow duration characteristics, from time of Plan commencement, at identified reference points.</li> </ul>	<ul style="list-style-type: none"> <li>• RFO 3.</li> <li>• Plan will maintain or increase the frequency and duration of moderate to high flows.</li> <li>• This assessment will focus on the plan’s end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.</li> <li>• Where data is limited, it is only possible to assess change from the period of plan commencement to the time the indicator is assessed.</li> <li>• There will be a high climatic influence on changes to the flow characteristics, depending on if the time period of assessment has been wet or dry.</li> </ul>
	<p>(c) Change in local water utilities access.</p>	<p>11 (h)</p>	<ul style="list-style-type: none"> <li>• Change in safe yield (<b>safe yield</b> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction).</li> </ul>

<p>(d) Change in ecological condition of this water source and dependent ecosystems.</p> <p>11 (a) 11 (b) 11 (c) 11 (d) 11 (e) 11 (f) 11 (q)</p>	<ul style="list-style-type: none"> <li>• Periodic assessment of identified attributes of this water source and dependent ecosystems.</li> </ul>	<ul style="list-style-type: none"> <li>• The ecological influence of the Plan is limited to providing for changes in flow regime aimed at improving the ecological condition of the water source and dependent ecosystems.</li> <li>• The focus of this performance indicator will be the effect of flow strategies.</li> <li>• Information on flow requirements of ecological systems is limited so physical or hydraulic surrogates will be used to assess the influence of the Plan. For example, the status of wetted area, depth in pools and flow velocity over riffles.</li> <li>• In addition to the environmental water provisions defined in this Plan, there are many other factors that contribute to achievement of ecological objectives. Riparian vegetation, water quality, farming techniques, soil erosion, water flow patterns and other catchment characteristics all significantly influence ecological condition. It is difficult to assess which factor is the most influential at a particular time and place.</li> <li>• Research and development into the impacts of flow on ecological condition will be incorporated into assessment of the plan where the information is available and relevant.</li> </ul>
<p>(e) Extent to which basic landholder rights requirements have been met.</p> <p>11 (g)</p>	<ul style="list-style-type: none"> <li>• Assessment of cease to pump levels in relation to basic rights requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Basic landholder rights usage figures in water sharing plans are estimated (not actual use).</li> </ul>

<p>(f) Change in economic benefits derived from water extraction and use.</p>	<p>11 (j) 11 (k) 11 (l) 11 (n)</p>	<ul style="list-style-type: none"> <li>• Number of days access provided over the time of the plan.</li> <li>• Number of new off stream storages.</li> <li>• Change in unit price of water transferred.</li> <li>• Change in gross margins.</li> </ul>	<ul style="list-style-type: none"> <li>• There are many factors affecting economic status of a region, for example commodity prices.</li> <li>• Measurement of the number of new off stream storages will indicate the adjustment to the rules and the ongoing access to water.</li> <li>• Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.</li> <li>• The data can reflect changes in crops, commodity prices, climate, water availability, economic climate and input costs.</li> </ul>
<p>(g) Extent to which native title rights requirements have been met.</p>	<p>11 (o)</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> </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 five years there should be relevant information collected for each water source, as a minimum requirement.</li> </ul>
<p>(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.</p>	<p>11 (a) 11 (b) 11 (c) 11 (d) 11 (f) 11 (o)</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> </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>

## Appendix 4 (Repealed)