

Water Sharing Plan for the Murray Unregulated River Water Sources 2011

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Notes.

- 1 In accordance with section 48 of the *Water Management Act 2000*, the Minister must take all reasonable steps to give effect to the provisions of this Plan when exercising functions under the Act.
- 2 In accordance with section 49 of the *Water Management Act 2000*, public authorities must also have regard to the provisions of this Plan to the extent they apply to the public authority.
- 3 The Minister may amend this Plan at any time under section 45 of the *Water Management Act 2000*, including if satisfied it is in the public interest to do so, or in such circumstances, in relation to such matters and to such extent as Part 12 of this Plan provides.

Part 1 Introduction

Note. Part 12 allows for amendments to be made to Part 1.

1 Name of this Plan

This Plan is the *Water Sharing Plan for the Murray Unregulated River Water Sources 2011* (hereafter *this Plan*).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* (hereafter *the Act*).
- (2) This Plan is a plan for water sharing and generally deals with the matters set out in sections 20 and 21 of the Act, as well as other sections of the Act.

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

3 Commencement of this Plan

This Plan commences on 30 January 2012.

Notes.

- 1 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2012.
 - 2 The Minister may extend this Plan for a further period of 10 years after it is due to expire, in accordance with section 43A of the Act.
 - 3 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was amended in 2020, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the New South Wales Murray and Lower Darling surface water resource plan area.
 - 4 **Basin Plan** is defined in the Dictionary.
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4 Application of this Plan

(1) This Plan applies to the following water sources known as the Murray Unregulated River Water Sources (hereafter *these water sources*) within the Murray Water Management Area:

- (a) Albury Water Source,
- (b) Dora Dora Water Source,
- (c) Hume Water Source,
- (d) Indi Water Source,
- (e) Jingellic Water Source,
- (f) Lower Wangamong Water Source,
- (g) Majors Water Source,
- (h) Mannus Water Source,
- (i) Maragle Water Source,
- (j) Murray Below Mulwala Water Source,
- (k) Ournie Welaregang Water Source,
- (l) Swampy Plain Water Source,
- (m) Tooma Water Source,
- (n) Tumbarumba Water Source, and
- (o) Upper Murray River Water Source.

Note. The Murray Water Management Area was constituted by Ministerial order made under section 11 of the *Water Management Act 2000* published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.

(2) These water sources are shown on the Plan Map called *Plan Map (WSP045_Version 2), Water Sharing Plan for the Murray Unregulated River Water Sources 2011* (hereafter *the Plan Map*), held by the Department.

Note. The Plan Map is part of this Plan and is available on the NSW legislation website. An overview of the Plan Map is shown in Appendix 1.

(3) Subject to subclause (5), these water sources include all water:

- (a) occurring naturally on the surface of the ground within the boundaries of these water sources as shown on the Plan Map, and

- (b) in rivers, lakes and wetlands within the boundaries of these water sources as shown on the Plan Map.
- (4) (Repealed)
- (5) These water sources do not include water:
 - (a) contained in the New South Wales Murray Regulated River Water Source to which the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* applies, or
 - (b) taken in the course of floodplain harvesting under a floodplain harvesting (regulated river) access licence.

Note. *Floodplain harvesting* is defined in the Dictionary.

Note. This plan, as amended by the *Water Sharing Plan for the Murray Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Upper Murray Groundwater Source. The *Water Sharing Plan for the Murray Alluvial Groundwater Sources 2020* applies to the Upper Murray Groundwater Source.

5 Management zones

- (1) For the purposes of this Plan, the following water sources are divided into the following management zones:
 - (a) Mannus Water Source:
 - (i) Mannus Upstream Management Zone, and
 - (ii) Mannus Downstream Management Zone,
 - (b) Tooma Water Source:
 - (i) Tooma River Management Zone, and
 - Note.** The Tooma River Management Zone is the area of the Tooma Water Source including only the Tooma River.
 - (ii) Tooma Tributaries Management Zone,
 - Note.** The Tooma Tributaries Management Zone is the area of the Tooma Water Source excluding the Tooma River.
 - (c) Tumbarumba Water Source:
 - (i) Tumbarumba Upstream Management Zone, and
 - Note.** The Tumbarumba Upstream Management Zone is the area of the Tumbarumba Water Source upstream of Paddy's River.
 - (ii) Tumbarumba Downstream Management Zone.
 - Note.** The Tumbarumba Downstream Management Zone is the area of the Tumbarumba Water Source downstream of Paddy's River.

- (2) The management zones in subclause (1) are shown on the Plan Map.

Note. *Management zone* is defined in the Dictionary.

6 Extraction management units in these water sources

- (1) This Plan establishes the following extraction management units (hereafter *the EMUs*):
- (a) Unregulated Upper Murray Extraction Management Unit, which applies to the water sources specified in item (a) of Column 2 in Table A, and
 - (b) Unregulated Middle Murray Extraction Management Unit, which applies to the water sources specified in item (b) of Column 2 in Table A.
- (2) The EMUs are shown on the Plan Map.

Notes.

- 1 A long-term average annual extraction limit and a long-term average sustainable diversion limit are established in Part 6 of this Plan for each extraction management unit. The long-term average annual extraction limit and long-term average sustainable diversion limit determine the maximum volume of water that may be extracted under access licences and basic landholder rights from all sources within the extraction management unit on a long-term average annual basis.
- 2 The EMUs and any water source to which the EMUs apply, may be amended as provided for in Part 12 of this Plan.

Table A — Extraction Management Units

	Column 1 — Extraction Management Unit	Column 2 — Water Sources
(a)	Unregulated Upper Murray Extraction Management Unit	Dora Dora Water Source Hume Water Source Indi Water Source Jingellic Water Source Mannus Water Source Maragle Water Source Ournie Welaregang Water Source Swampy Plain Water Source Tooma Water Source Tumbarumba Water Source Upper Murray River Water Source
(b)	Unregulated Middle Murray Extraction Management Unit	Albury Water Source Lower Wangamong Water Source Majors Water Source Murray Below Mulwala Water Source

7 Understanding the rules in this Plan

This Plan contains various rules. Where appropriate, rules specified in this Plan are given effect by mandatory conditions for access licences and approvals contained in Part 11 of this Plan.

Note. The rules in this Plan include environmental water rules, access licence dealing rules, rules for granting and managing access licences, rules for water supply work approvals, rules for the making of available water determinations, water allocation account rules and daily access rules.

8 Interpretation

- (1) Words and expressions that are defined in the Dictionary in Schedule 1 to this Plan have the meaning set out in that Schedule.
- (2) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations to the Act (hereafter *the Regulations*) have the same meaning in this Plan.
- (3) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) Schedules to this Plan form part of this Plan.
- (4A) The Plan Map forms part of this Plan.
- (4B) A number in brackets following the name of a gauge is the gauge number.
- (5) Notes in the text of this Plan do not form part of this Plan.
- (6) Appendices to this Plan do not form part of this Plan.

Part 2 Vision, objectives, strategies and performance indicators

Notes.

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 A monitoring, evaluation and reporting (**MER**) plan has been developed for water sources in the New South Wales Murray and Lower Darling surface water resource plan area, which includes these water sources, and is available on the Department's website. The MER plan describes the following:
 - (a) guidelines and principles for developing broad and targeted objectives, strategies and performance indicators,
 - (b) selection criteria used to identify target ecological populations,
 - (c) selection criteria used for identifying priority monitoring locations for targeted objectives,
 - (d) selection criteria used to identify external influences that may affect the success of achieving objectives or implementing strategies,
 - (e) selection criteria used to determine how the objectives to 'protect' or 'enhance' will be measured for different target populations and performance indicators,
 - (f) which strategies contribute to the achievement of which objectives.
- 3 This Part describes broad objectives, which are the long term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in this Part are specific outcomes that can be achieved by the strategies in this Plan and can be directly measured so that success or failure to achieve the objective can be quantified.

8A Acknowledgement

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

9 Vision statement

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

- (a) the health and enhancement of these water sources and their water-dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (d) the social and cultural benefits to urban and rural communities that result from surface water.

10 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect, and where possible enhance, the ecological condition of these water sources and their water-dependent ecosystems over the term of this Plan.

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

- (2) The targeted environmental objective of this Plan is to protect, and where possible enhance, the following over the term of this Plan:

- (a) the recorded distribution or extent, and population structure, of target ecological populations,

Notes.

- 1 **Target ecological populations** is defined in the Dictionary.
- 2 Target ecological populations in these water sources may include known or predicted populations of the following:
 - (a) native fish including Macquarie perch, Murray cod, trout cod, flathead galaxias and southern pygmy perch,
 - (b) native vegetation including montane peatlands and river red gum,
 - (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds, native vegetation and low flow macroinvertebrate communities in water sources that are susceptible to increased frequency and duration of low flows and drying.
- 3 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

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

Notes.

- 1 Longitudinal connectivity means flows along the length of the river and between the river and its anabranches, riparian zones, wetlands and floodplains.
- 2 Target ecological processes in these water sources include fish movement across significant barriers, as identified by NSW Department of Primary Industries (Fisheries) and described in the MER plan for these water sources.
- 3 Connectivity may be within or between these water sources or between these water sources and other water sources.

- (c) water quality within target ranges for these water sources to support water-dependent ecosystems and ecosystem functions.

Note. Water quality target ranges for these water sources are defined in the Water Quality Management Plan for the Murray and Lower Darling Water Resource Plan Area SW8 and NSW State Water Quality Assessment and Monitoring Plan.

- (3) The strategies for reaching the targeted environmental objective of this Plan are as follows:
- (a) reserve all water volume in excess of the long-term average annual extraction limit and long-term average sustainable diversion limit for the environment,
- Note.** Part 4 of this Plan reserves all water remaining above the long-term average annual extraction limit and long-term average sustainable diversion limit for the environment. This contributes to the protection of target ecological populations.
- (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in these water sources,
- Notes.**
- 1 **Flow regimes** is defined in the Dictionary.
 - 2 The provisions in Division 2 of Part 8 of this Plan establish flow classes that manage the take of water.
- (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,
- Notes.**
- 1 **In-river pool** and **off-river pool** are defined in the Dictionary.
 - 2 The provisions in clause 44 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity.
- (d) restrict or prevent water supply work approvals on third order or higher streams,
- Notes.**
- 1 The provisions in Part 9 prevent the granting or amendment of a water supply work approval for an in-river dam on a third order or higher stream in the Dora Dora Water Source.
 - 2 References in this Plan to a third order or higher stream relate to the stream order defined by the Strahler stream ordering method. The Strahler stream ordering method is as described in Schedule 2 to the *Water Management (General) Regulation 2018*.
- (e) reserve a portion of natural flows to maintain longitudinal connectivity with and between these water sources and other connected water sources.
- Note.** The provisions in clause 43 of this Plan ensure that low and very low flows are protected from extraction.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to

which the combined outcomes of the targeted objectives in subclause (2) have contributed to achieving the broad objective.

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

Note. External influences may include climate trends, land use patterns and other factors.

11 Economic objectives

- (1) The broad economic objective of this Plan is to maintain, and where possible improve access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.
- (2) The targeted economic objectives of this Plan are as follows:
- (a) to maintain, and where possible improve, water trading opportunities for surface water-dependent businesses,

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

- (b) to maintain, and where possible improve, access to water for agriculture, surface water-dependent businesses and landholders,
 - (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows:
- (a) provide for trade of water allocations and share components, subject to environmental constraints.
Note. The provisions in Part 10 of this Plan permit a variety of dealings within environmental constraints, including assignment of rights under access licences, assignment of water allocations between access licences, and the ability to move the share component of an access licence from one water source to another.
 - (b) provide a stable and predictable framework for sharing water among water users,
Note. The compliance with extraction and diversion limit provisions in Division 4 of Part 6 of this Plan and the flow class and access provisions in Division 2 of Part 8 of this Plan provide certainty in how water access will be shared between different categories of access licences.
 - (c) provide flexibility of access to water,
Note. The individual account management provisions in clause 40 of this Plan, including the limit on the volume of water that can be taken in any water year or over three consecutive water years and the amount of water that may be carried over from one water year to the next, provide flexibility that reflects the characteristics of the licence category.
 - (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit.
Note. Part 6 of this Plan manages the extraction of water within the long-term average annual extraction limits and the long-term average sustainable diversion limits.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are changes or trends in economic benefits during the term of this Plan, as assessed using one or more of the following:
- (a) the economic benefits of water extraction and use,
 - (b) the economic benefits of water trading as demonstrated by:
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- (i) the annual number or volume of share components of access licences transferred or assigned,
 - (ii) the weighted average unit price of share components of access licences transferred or assigned,
Note. Weighted average unit price is defined in the Dictionary.
 - (iii) the annual volume of water allocations assigned,
- (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the economic benefits of surface water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the economic objectives,
 - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress toward achieving the economic objectives.
- Note.** External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances, climate or changes in industry policy or regulation.

12 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) to provide access to water in the exercise of native title rights,
 - (b) to provide access to water for Aboriginal cultural use, including fishing,

- (c) to protect, and where possible improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
 - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
- (a) manage access to water consistently with the exercise of native title rights,
 - (b) provide for water associated with Aboriginal cultural values and uses,
Note. The provisions in Part 7 of this Plan provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory 'Aboriginal cultural'.
 - (c) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (d) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,
Note. The provisions in clause 44 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity, thereby contributing to the protection of native fish populations, swimming and recreational areas and riparian vegetation.
 - (e) reserve a portion of natural flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.
Note. The provisions in clauses 43 and 44 of this Plan ensure that a portion of medium and high natural flows are protected from extraction.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan, as assessed using one or more of the following:
- (a) the use of water by Aboriginal people by measuring factors including:

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

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

12A Social and cultural objectives

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

- (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
 - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing,
 - (c) water quality within target ranges for basic landholder rights, town water supply, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
- (a) provide water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
 - (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,
 - (d) reserve a portion of natural flows to maintain longitudinal connectivity within and between these water sources, and between these water sources and other connected water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan, as assessed using one or more of the following:
- (a) the social and cultural uses of water during the term of this Plan, by measuring factors including:
 - (i) the extent to which basic landholder rights and licensed domestic and stock requirements have been met,

- (ii) the extent to which major utility access licence and local water utility access licence requirements have been met,
 - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,
 - (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
 - (d) the recorded values of water quality measurements, including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
 - (d) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress toward achieving the social and cultural objectives.

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

Part 3 Bulk access regime

13 Bulk access regime

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences in these water sources, having regard to:
 - (a) the environmental water rules established in Part 4 of this Plan,
 - (b) the requirements for water for basic landholder rights identified in Division 2 of Part 5 of this Plan,
 - (c) the requirements for water for extraction under access licences identified in Division 3 of Part 5 of this Plan, and
 - (d) the access licence dealing rules established in Part 10 of this Plan.
- (2) The bulk access regime for these water sources:
 - (a) recognises and is consistent with the limits to the availability of water set in relation to these water sources contained in Part 6 of this Plan,
 - (b) establishes rules according to which access licences are to be granted and managed contained in Parts 7 and 8 of this Plan and available water determinations are to be made contained in Part 6 of this Plan,
 - (c) recognises the effect of climatic variability on the availability of water as described in clause 14,
 - (d) establishes rules with respect to the priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit and long-term average sustainable diversion limit, contained in Part 6 of this Plan,
 - (e) contains provisions with respect to the conditions that must be imposed as mandatory conditions on access licences contained in Division 2 of Part 11 of this Plan, and
 - (f) recognises and is consistent with the water management principles contained in section 5 of the Act.

14 Climatic variability

This Plan recognises the effects of climatic variability on river flow in these water sources by having provisions that:

- (a) manage the sharing of water within the limits of water availability on a long-term average annual basis and the priorities according to which water allocations are to be adjusted as a consequence of any reductions in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit and long-term average sustainable diversion limit, contained in Part 6 of this Plan, and
- (b) manage the sharing of water in specified water sources on a daily basis, contained in Division 2 of Part 8 of this Plan.

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

Part 4 Planned environmental water provisions

Note. This Part is made in accordance with section 8 of the Act.

15 General

This Part contains environmental water rules for the commitment, identification, establishment and maintenance of planned environmental water in these water sources.

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

16 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water in these water sources in the following ways:

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

17 Establishment and maintenance of planned environmental water

(1) This Plan establishes planned environmental water in these water sources as follows:

- (a) the physical presence of water resulting from the access rules specified in Division 2 of Part 8 of this Plan,
Note. The rules in Division 2 of Part 8 of this Plan set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.
- (b) the long-term average annual commitment of water as planned environmental water resulting from compliance with the long-term average annual extraction limits and long-term sustainable diversion limit as specified in Part 6,
- (c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the provisions specified in Parts 6 and 8 of this Plan.

- (2) The planned environmental water established under subclause (1) (a) is maintained by the rules specified in Division 2 of Part 8 of this Plan.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6 of this Plan.
- (4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Parts 6 and 8 of this Plan.

Note. The provisions in Part 6 of this Plan ensure that there will be water remaining in these water sources over the long term by maintaining compliance with the long-term average annual extraction limits and the long-term average sustainable diversion limit. The provisions in Part 6 of this Plan provide for a reduction in available water determinations when the long-term average annual extraction limits or the long-term average sustainable diversion limit have been assessed to have been exceeded.

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Part 5 Requirements for water

Division 1 General

18 Application

- (1) This Part identifies the requirements for water from these water sources for basic landholder rights (Division 2) and for extraction under access licences (Division 3).
- (2) The amounts of water specified in this Part represent the estimated water requirements of persons entitled to basic landholder rights in these water sources and the total volumes or unit shares specified in the share components of all access licences in these water sources. The actual volumes of water available for extraction in these water sources at any time will depend on factors such as climatic variability, access licence priority and the rules in this Plan.
- (3) This Plan recognises that basic landholder rights in these water sources and the total share components of all access licences authorised to extract water from these water sources may change during the term of this Plan. This Plan manages such changes by having provisions that manage the sharing of water within the limits of water availability, as provided for in Part 6 of this Plan.

Note. The total share components of access licences in these water sources may change during the terms of this Plan as a result of:

- (a) the grant, surrender or cancellation of access licences in these water sources,
- (b) the variation of local water utility licences under section 66 of the Act, or
- (c) changes due to the volumetric conversion of *Water Act 1912* entitlements that are currently non-volumetric.

Division 2 Requirements for water for basic landholder rights

19 Domestic and stock rights

The water requirements of persons entitled to domestic and stock rights in these water sources are estimated to total 3.1 megalitres per day (hereafter *ML/day*), distributed as follows:

- (a) 0.1 ML/day in the Albury Water Source,
- (b) 0.1 ML/day in the Dora Dora Water Source,
- (c) 0.1 ML/day in the Hume Water Source,

- (d) 0.1 ML/day in the Indi Water Source,
- (e) 0.2 ML/day in the Jingellic Water Source,
- (f) 0.1 ML/day in the Lower Wangamong Water Source,
- (g) 0.1 ML/day in the Majors Water Source,
- (h) 0.5 ML/day in the Mannus Water Source,
- (i) 0.1 ML/day in the Maragle Water Source,
- (j) 0.5 ML/day in the Murray Below Mulwala Water Source,
- (k) 0.1 ML/day in the Ournie Welaregang Water Source,
- (l) 0.1 ML/day in the Swampy Plain Water Source,
- (m) 0.1 ML/day in the Tooma Water Source,
- (n) 0.2 ML/day in the Tumbarumba Water Source, and
- (o) 0.7 ML/day in the Upper Murray River Water Source.
- (p) (repealed)

Notes.

- 1 Domestic and stock rights are set out in Division 1 of Part 1 of Chapter 3 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act with respect to the taking and use of water for domestic consumption or stock watering.
- 2 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water from these water sources should not be consumed without first being tested and if necessary, appropriately treated. Such testing and treatment is the responsibility of the water user.

20 Native title rights

The requirement for water to satisfy native title rights is the water that may be taken in the exercise of native title rights in accordance with the *Native Title Act 1993* of the Commonwealth, including:

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

Notes.

- 1 No determinations of native title in relation to these water sources have been made in accordance with the *Native Title Act 1993* of the Commonwealth at the commencement of this Plan.
- 2 The Plan may be amended if there is a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.

- 3 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

21 Harvestable rights

The requirements for water under harvestable rights in these water sources is the total amount of water that owners or occupiers of landholdings are entitled to capture and store, pursuant to a harvestable rights order made under Part 1 of Chapter 3 of the Act.

Division 3 Requirements for water for extraction under access licences

22 Share components of domestic and stock access licences

It is estimated that the share components of domestic and stock access licences authorised to take water from these water sources total 720 ML/year, distributed as follows:

- (a) 61 ML/year in the Albury Water Source,
- (b) 0 ML/year in the Dora Dora Water Source,
- (c) 32 ML/year in the Hume Water Source,
- (d) 7 ML/year in the Indi Water Source,
- (e) 2 ML/year in the Jingellic Water Source,
- (f) 7 ML/year in the Lower Wangamong Water Source,
- (g) 5 ML/year in the Majors Water Source,
- (h) 16 ML/year in the Mannus Water Source,
- (i) 16 ML/year in the Maragle Water Source,
- (j) 402 ML/year in the Murray Below Mulwala Water Source,
- (k) 7 ML/year in the Ournie Welaregang Water Source,
- (l) 21 ML/year in the Swampy Plain Water Source,
- (m) 7 ML/year in the Tooma Water Source,
- (n) 53 ML/year the Tumbarumba Water Source, and
- (o) 84 ML/year in the Upper Murray River Water Source.
- (p) (repealed)

23 Share components of local water utility access licences

It is estimated that the share components of local water utility access licences authorised to take water from these water sources total 639 ML/year, distributed as follows:

- (a) 140 ML/year in the Swampy Plain Water Source,
- (b) 499 ML/year in the Tumbarumba Water Source, and
- (c) (repealed)
- (d) 0 ML/year in all other water sources.

24 Share components of unregulated river access licences

It is estimated that the share components of unregulated river access licences authorised to take water from these water sources total 42,077 unit shares, distributed as follows:

- (a) 398 unit shares in the Albury Water Source,
- (b) 0 unit shares in the Dora Dora Water Source,
- (c) 208 unit shares in the Hume Water Source,
- (d) 2,359 unit shares in the Indi Water Source,
- (e) 231 unit shares in the Jingellic Water Source,
- (f) 16 unit shares in the Lower Wangamong Water Source,
- (g) 76 unit shares in the Majors Water Source,
- (h) 1,397 unit shares in the Mannus Water Source,
- (i) 401 unit shares in the Maragle Water Source,
- (j) 28,828 unit shares in the Murray Below Mulwala Water Source,
- (k) 53 unit shares in the Ournie Welaregang Water Source,
- (l) 174 unit shares in the Swampy Plain Water Source,
- (m) 1,380 unit shares in the Tooma Water Source,
- (n) 1,009 unit shares in the Tumbarumba Water Source, and
- (o) 5,547 unit shares in the Upper Murray River Water Source.

25 (Repealed)

26 Share components of unregulated river (high flow) access licences

It is estimated that the share components of unregulated river (high flow) access licences authorised to take water from these water sources total 0 unit shares, distributed as follows:

- (a) 0 unit shares in the Indi Water Source,
- (b) 0 unit shares in the Mannus Water Source,
- (c) 0 unit shares in the Maragle Water Source,
- (d) 0 unit shares in the Tooma Water Source, and
- (e) 0 unit shares in the Tumbarumba Water Source.

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

Part 6 Limits to the availability of water

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

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

Division 1 Calculations under this Part

27 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following:
 - (a) the long-term average annual extraction limits under clause 28,
 - (b) the annual extraction under clause 29,
 - (c) the annual permitted take under clause 30B,
 - (d) the annual actual take under clause 30B.

Note. *Annual permitted take* and *annual actual take* are defined in the Dictionary.
- (2) The calculations by the Minister to which this clause applies must:
 - (a) exclude the following:
 - (i) allocations assigned from an access licence in one of these water sources to an access licence in a water source other than these water sources, under section 71T of the Act,
 - (ii) in relation to annual extraction under clause 29 only, water committed as licensed environmental water under section 8F of the Act,
 - (b) include allocations assigned to an access licence in one of these water sources from an access licence in a water source other than these water sources, under section 71T of the Act.
- (3) The calculation by the Minister of the long-term average annual extraction limits under clause 28 must be adjusted by a volume that appropriately reflects the following:
 - (a) the share components of water access licences in these water source that are subject to a dealing under section 71U of the Act,

- (b) any changes to the amount of water committed as licensed environmental water under section 8F of the Act.

Division 2 Long-term average annual extraction limits

28 Calculation of the long-term average annual extraction limits

- (1) This clause establishes a long-term average annual extraction limit for each extraction management unit to which this Plan applies.
- (2) The long-term average annual extraction limit for each extraction management unit is the sum of:
 - (a) the estimated annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the *Water Act 1912* in the respective water sources for the extraction management unit, plus
 - (b) the estimated annual water requirements pursuant to basic landholder rights in the respective water sources for the extraction management unit at the commencement of this Plan, plus
 - (c) the estimated annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 by floodplain harvesting activities for which floodplain harvesting (unregulated river) access licences may be issued in the respective water sources for the extraction management unit, plus
 - (d) the estimated annual take of water from the respective water sources for the extraction management unit by plantation forestry that existed on 30 June 2009.
Note. *Plantation forestry* is defined in the Dictionary.

29 Calculation of annual extraction

Following the end of each water year, the Minister is to calculate the total annual extraction from each of the EMUs based on the following:

- (a) the take of water by basic landholder rights and access licences in that water year,
- (b) the estimated take of water by plantation forestry in that water year,
- (c) until such time as it is included under paragraph (a), the estimated take of water in the water year by floodplain harvesting, for which floodplain harvesting (unregulated river) access licences may be issued in the EMUs.

30 Assessment of compliance with the long-term average annual extraction limits

- (1) Following the calculations under clause 29, the Minister is to compare the average of the total annual extraction for each extraction management unit over the preceding three water years against the respective long-term average annual extraction limit.
- (2) There is non-compliance with the long-term average annual extraction limit if the average of the total annual extraction over the preceding three water years exceeds the long-term average annual extraction limit by 5% or more.

Division 3 Long-term average sustainable diversion limit

Note. *New South Wales Murray SDL resource unit* is defined in the Dictionary.

30A Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for each of the extraction management units is the component of the baseline diversion limit for the New South Wales Murray SDL resource unit calculated in accordance with Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to these water sources.
- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

Notes.

- 1 **Baseline diversion limit** is defined in the Dictionary.
- 2 The long-term average sustainable diversion limit for the New South Wales Murray SDL resource unit specified in Schedule 2 of the Basin Plan covers extractions from both the New South Wales Murray Regulated River Water Source and the Murray Unregulated River Water Sources.

30B Calculation of annual permitted and annual actual take for the water year

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

Notes.

- 1 Under the Basin Plan take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation as they fall outside the definition of take for consumptive use.
- 2 **Consumptive use** and **take** and are defined in section 4 of the *Water Act 2007* of the Commonwealth.

30C Assessment of compliance with the long-term average sustainable diversion limit

- (1) Following the calculation under clause 30B after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

Division 4 Compliance with extraction and diversion limits

31 Action following non-compliance

- (1) Subject to subclause (2) to (4), if an assessment under clauses 30 or 30C demonstrates non-compliance with either the long-term average annual extraction limit for an extraction management unit or the long-term average sustainable diversion limit, the Minister is to take the following actions for the water year after the assessment:
 - (a) make available water determinations for unregulated river access licences of less than 1 ML per unit share,
 - (b) make available water determinations for unregulated river (high flow) access licences of less than 1 ML per unit share.
- (2) The Minister may take the action specified in subclause (1) if an assessment under clause 30C would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (3) An action taken in accordance with subclause (1) and (2) is to be taken to the extent to which, and only for as long as, the Minister considers the following is necessary:
 - (a) in the case of non-compliance with the long-term average annual extraction limit – to return long-term average annual extraction in the extraction management unit to the respective long-term average annual extraction limit,

- (b) in the case of non-compliance with the long-term average sustainable diversion limit – to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
 - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse—to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) An action taken in accordance with subclause (1) and (2) to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan is to only apply to a water source to the extent to which extractions from the water source:
- (a) have caused non-compliance with the long-term average sustainable diversion limit, or
 - (b) would have caused non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse.

32 (Repealed)

Division 5 Available water determinations

33 General

- (1) Available water determinations for access licences with share components that specify any one of these water sources are to be expressed as either:
 - (a) a percentage of the share component for access licences where share components are specified as ML/year, or
 - (b) megalitres per unit share for access licences where share components are specified as a number of unit shares.
- (2) The sum of available water determinations made for any access licence with a share component that specifies one of these water sources must not, in any water year, exceed:
 - (a) 100% of the access licence share component for all access licences where share components are specified as ML/year, or
 - (b) 1 megalitre per unit share of the access licence share component for all access licences where share components are specified as a number of unit shares.
- (3) (Repealed)

34 (Repealed)

35 Available water determinations

Unless the Minister otherwise determines, at the commencement of each water year, the following available water determinations should be made for access licences with a share component that specifies one of these water sources:

- (a) 100% of the access licence share component for domestic and stock access licences,
- (b) 100% of the access licence share component for local water utility access licences,
- (c) 1 megalitre per unit of share component for unregulated river access licences, and
- (d) 1 megalitre per unit of share component for unregulated river (high flow) access licences,

or such lower amount that results from Division 4 of this Part.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river access licences and unregulated river (high flow) access licences that are less than 1 ML per unit of share component where the long-term average annual extraction limit or long-term average sustainable diversion limit for the respective extraction management units have been assessed to have been exceeded.

36 (Repealed)

Part 7 Rules for granting access licences

Notes.

- 1 This Part is made in accordance with sections 20 and 61 of the Act.
- 2 Access licences in these water sources are subject to mandatory conditions and may be subject to discretionary conditions.

37 Specific purpose access licences

Note. Section 61 of the Act allows for the granting of specific purpose access licences under the regulations and the relevant water sharing plan.

- (1) Applications may not be made for a specific purpose access licence of the subcategory “Aboriginal cultural” if the share component of the proposed access licence is more than 10 ML/year.
- (2) A specific purpose access licence must not be granted in these water sources unless the Minister is satisfied that the share and extraction component of the access licence is the minimum required to meet the circumstances in which the access licence is proposed to be used.
- (3) An access licence of the subcategory “Aboriginal cultural” may only be granted for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teachings, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

Note. *Aboriginal person* is defined in the Dictionary.

38 (Repealed)

Part 8 Rules for managing access licences

Division 1 Water allocation account management rules

Note. The Act and the regulations provide for the keeping of water allocation accounts for access licences. The rules in this Division impose further limits on the water that may be taken under an access licence over a specified period of time. These limits are in addition to any other limits on access licences for the taking of water. It is an offence under the Act to take water under an access licence for which there is no or insufficient water allocation.

39 (Repealed)

40 Individual access licence account management rules

- (1) The rules in this clause apply to the taking of water under an access licence with a share component that specifies one of these water sources.
- (2) (Repealed)
- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, water taken under an access licence to which this clause applies must not exceed a volume equal to the lesser of:
 - (a) the sum of:
 - (i) water allocations accrued to the water allocation account for the access licence from available water determinations in those three water years,
 - (ii) the water allocations carried over from the water year prior to those three water years under subclause (4),
 - (iii) the net amount of water allocations assigned to or from the water allocation account for the access licence under sections 71T or 71V of the Act in those three water years, and
 - (iv) any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years, or
 - (b) the sum of:
 - (i) the share component of the access licence at the beginning of the first of those three water years,

- (ii) the share component of the access licence at the beginning of the second of those three water years,
 - (iii) the share component of the access licence at the beginning of the third of those three water years,
 - (iv) the net amount of any water allocations assigned to or from the water allocation account for the access licence under sections 71T or 71V of the Act in those three water years, and
 - (v) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years.
- (4) The maximum water allocation that can be carried over in the water allocation account for an access licence to which this clause applies, from one water year to the next is equal to:
- (a) 100% of the access licence share component, for access licences with share components expressed as ML/year, or
 - (b) 1 ML per unit share of access licence share component, for access licences with share components expressed as a number of unit shares.

41 (Repealed)

Division 2 Flow classes and daily access rules

Note. Part 12 of this Plan allows for amendments to be made to this Division.

42 General

The rules in this Division apply to the taking of water under access licence with a share component that specifies one of these water sources.

43 Flow classes

- (1) This Plan establishes the flow classes specified in Column 3 of Table B as the basis for the sharing of flows on a daily basis in these water sources.
- (2) The flow classes in Column 3 and the flow reference points specified in Column 6 of Table B are established for each water source specified in Column 1 and each management zone specified in Column 2 of Table B.
- (3) The flow classes commence in the year specified in Column 4 of Table B.

- (4) A flow class applies in the respective water source or management zone on the day specified in Column 7 of Table B when the flow (ML/day) or river height (metres) as measured at the reference point specified in Column 6 of Table B are equal to the flow or river height specified in Column 5 of Table B.
- (5) For the purpose of Table B, *Year 1 of this Plan* means from the date of commencement of this Plan.

Notes.

- 1 The flow classes, reference points, the water sources or management zones to which a flow class applies, or any other matter listed in Table B may be amended as provided for in Part 12 of this Plan.
- 2 Only those water sources for which flow classes have been established at the commencement of this Plan are shown in Table B.

Table B — Flow Classes

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Water Source	Management Zone	Flow class	Commencement	Flow (ML/day) or river height (metres)	Reference point	Day on which flow class applies
Indi Water Source		Very Low Flow Class	Year 1 of this Plan	Less than or equal to 87 ML/day	Murray River at Biggara gauge (401012)	Same day
		A Class	Year 1 of this Plan	More than 87 ML/day and less than or equal to 157 ML/day		Same day
		B Class	Year 1 of this Plan	More than 157 ML/day and less than or equal to 467 ML/day		Same day
		C Class	Year 1 of this Plan	More than 467 ML/day		Same day
Jingellic Water Source		Very Low Flow Class	Year 1 of this Plan	Less than or equal to 10 ML/day	Jingellic Creek at Jingellic gauge (401013)	Same day
		A Class	Year 1 of this Plan	More than 10 ML/day		Same day
Mannus Water Source	Mannus Upstream Management	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 0.2 metres or	Mannus Creek at Glenroy No.	Same day

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	Zone			less at Mannus Creek at Glenroy No.2 gauge	2 gauge (4010291) and Mannus Creek at	
		A Class	Year 1 of this Plan	More than 0.2 metres at Mannus Creek at Glenroy No.2 gauge and less than or equal to 61 ML/day at Mannus Creek at Yarramundi gauge	Yarramundi gauge (401017)	Same day
		B Class	Year 1 of this Plan	More than 0.2 metres at Mannus Creek at Glenroy No.2 gauge and more than 61 ML/day at Mannus Creek at Yarramundi gauge		Same day
	Mannus Downstream Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 9.4 ML/day	Mannus Creek at Yarramundi	Same day
		A Class	Year 1 of this Plan	More than 9.4 ML/day and less than or equal to 61 ML/day	gauge (401017)	Same day
		B Class	Year 1 of this Plan	More than 61 ML/day		Same day
Maragle Water Source		Very Low Flow Class	Year 1 of this Plan	Less than or equal to 10 ML/day	Maragle Creek at Maragle	Same day
		A Class	Year 1 of this Plan	More than 10 ML/day and less than or equal to	gauge (401009)	Same day

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				41 ML/day		
		B Class	Year 1 of this Plan	More than 41 ML/day		Same day
Tooma Water Source	Tooma River Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 79 ML/day	Tooma River at Pinegrove gauge (401014)	Same day
		A Class	Year 1 of this Plan	More than 79 ML/day and less than or equal to 297 ML/day		Same day
		B Class	Year 1 of this Plan	More than 297 ML/day		Same day
Tumbarumba Water Source	Tumbarumba Upstream Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 14 ML/day	Tumbarumba Creek at Tumbarumba No 2 gauge (401007)	Same day
		A Class	Year 1 of this Plan	More than 14 ML/day and less than or equal to 79 ML/day		Same day
		B Class	Year 1 of this Plan	More than 79 ML/day		Same day
	Tumbarumba Downstream Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 32 ML/day	Tumbarumba Creek at Tooma (Bakers) gauge (401024)	Same day
		A Class	Year 1 of this Plan	More than 32 ML/day and less than or equal to 120 ML/day or less		Same day
		B Class	Year 1 of this Plan	More than 120 ML/day		Same day
Upper Murray River Water Source		Very Low Flow Class	Year 1 of this Plan	Less than or equal to 600 ML/day	Murray River at Jingellic gauge (401201A)	Same day
		A Class	Year 1 of this Plan	More than 600 ML/day		Same day

Notes.

- 1 For Murray River at Biggara gauge (401012):
 - 87 ML/day corresponds to the estimated 98th percentile flow,
 - 157 ML/day corresponds to the estimated 95th percentile flow, and
 - 467 ML/day corresponds to the estimated 70th percentile flow.
- 2 For Jingellic Creek at Jingellic gauge (401013), 10 ML/day corresponds to the 87th percentile flow.

- 3 For Mannus Creek at Yarramundi gauge (401017):
 - 9.4 ML/day corresponds to the 72nd percentile flow, and
 - 61 ML/day corresponds to the 30th percentile flow.
- 4 For Maragle Creek at Maragle gauge (401009):
 - 10 ML/day corresponds to the 85th percentile flow, and
 - 41 ML/day corresponds to the 50th percentile flow.
- 5 For Tooma River at Pinegrove gauge (401014):
 - 79 ML/day corresponds to the estimated 95th percentile flow, and
 - 297 ML/day corresponds to the estimated 70th percentile flow.
- 6 For Tumbarumba Creek at Tumbarumba No. 2 gauge (401007):
 - 14 ML/day corresponds to the 95th percentile flow, and
 - 79 ML/day corresponds to the 50th percentile flow.
- 7 For Tumbarumba Creek at Tooma (Bakers) gauge (401024):
 - 32 ML/day corresponds to the 95th percentile flow, and
 - 120 ML/day corresponds to the 70th percentile flow.
- 8 When real-time data for the Swampy Plain River at Khancoban 2 (401501) gauge becomes publicly available a Very Low Flow Class will be established for when flows are at the 95th percentile or a lesser flow of critical month flow, for those users on Swampy Plain River upstream of Khancoban Pondage.
- 9 For Murray River at Jingellic gauge (401201A), percentile flows are not used to determine the flow class.
- 10 The flow percentiles above refer to critical month flows (February) at the gauge and include all days of record.

44 Access rules for the taking of surface water

- (1) This clause applies to the taking of water under an access licence from these water sources, except for the taking of water under an access licence that does not nominate a water supply work approval in these water sources, where the access licence is used to account for the taking of water in association with an aquifer interference activity.
- (2) Subject to subclause (12), water must not be taken under an access licence with a share component that specifies a water source or an extraction component that specifies a management zone with a Very Low Flow Class that has commenced, when flows in that water source or management zone are in the Very Low Flow Class. This subclause does not apply to:
 - (a) the taking of water under an access licence to which subclause (5) applies, and
 - (b) the taking of water from natural pools, lagoons and lakes to which subclause (7) applies.

- (3) Water must not be taken under an unregulated river (high flow) access licence with a share component that specifies one of these water sources, excluding the Indi Water Source, when flows are in A Class.
- (4) Water must not be taken under an unregulated river (high flow) access licence with a share component that specifies the Indi Water Source when flows are in A Class or B Class.
- (5) Water must not be taken under an access licence where the cease to pump threshold on the entitlement issued under Part 2 of the *Water Act 1912* that the access licence replaces is in the Minister's opinion, higher than the upper limit of the relevant Very Low Flow Class (as specified in Column 5 of Table B) or the cease to take condition specified in subclauses (2) and (6) to (8), when flows are at or less than the cease to pump threshold that was specified on the replaced *Water Act 1912* entitlement. In this subclause, ***cease to pump threshold*** means a condition or restriction on the replaced entitlement which places a limit on when water may be taken.

Notes.

- 1 ***Cease to take condition*** and ***Water Act 1912 entitlement*** are defined in the Dictionary.
 - 2 Those licences and access rules that have been identified as higher than the upper limit of the cease to take conditions are referred to in Appendix 3.
- (6) Subject to subclause (12), water must not be taken under an access licence if there is less than a visible flow in the water source at the location at which water is proposed to be taken. This subclause does not apply to the following:
 - (a) the taking of water from natural pools, lagoons and lakes that are subject to the 80% of the full containment volume cease to take condition specified in subclause (7), and
 - (b) the taking of water from natural pools, lagoons and lakes within rivers.

Notes. ***Full containment volume*** and ***visible flow*** are defined in the Dictionary.

- (7) Subject to subclause (12), water must not be taken from natural pools, lagoons or lakes that are not within a river, when the water level in that pool, lagoon or lake is less than 80% of the full containment volume of the respective pool, lagoon or lake.
- (8) Subject to subclause (12), water must not be taken from natural pools, lagoons or lakes within rivers in water sources or management zones where flow classes have not been established, when the water level in that pool, lagoon or lake is less than 100% of the full containment volume of the respective pool, lagoon or lake.

- (9) Subject to subclause (10), water must not be taken from a pool created by a structure covered by a water supply work approval under an access licence when flows are at or less than the cease to pump threshold that was specified on the entitlement issued under Part 2 of the *Water Act 1912* that the access licence replaces.

Note. This subclause applies to in-river dam pools and lagoons where the water level is maintained through the use of a regulator, such as Moonyah Lagoon in the Murray Below Mulwala Water Source.

- (10) Water must not be taken from an in-river dam pool unless the in-river dam is passing such flows as specified on the water supply work approval for the in-river dam.

Note. *In-river dam* and *in-river dam pool* is defined in the Dictionary.

- (11) The flows to be specified on the water supply work approval for the in-river dam referred to in subclause (10) are:
- (a) the flows that were specified in conditions on the *Water Act 1912* entitlement that the approval replaces, or
 - (b) where no flows were specified, the amount of flows determined by the Minister.
- (12) Subclauses (2) and (6) to (8) do not apply to the following:
- (a) the taking of water under an access licence to which clause 1 of Schedule 2 applies, for any of the purposes listed below, provided that the volume of water taken does not exceed 20 kilolitres per day per access licence or such lower amount specified in accordance with subclause (14):
 - (i) fruit washing,
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (iii) poultry watering and misting, or
 - (iv) cleaning of enclosures used for intensive animal production for the purposes of hygiene,
 - (b) the taking of water for domestic consumption only under a domestic and stock access licence or a domestic and stock (subcategory “domestic”) access licence that existed at the commencement of this Plan, provided that the volume of water taken does not exceed 1 kilolitre per house supplied by the access licence per day,
 - (c) (repealed),

- (d) the taking of water from a runoff harvesting dam or a pool created by structures covered by a water supply work approval, and

Note. *Runoff harvesting dam* is defined in the Dictionary.

- (e) the taking of water under a local water utility access licence or an access licence of the subcategory “Town water supply” to which clause 2 of Schedule 2 applies.
- (13) Water must not be taken under a local water utility access licence or an unregulated river (“Town water supply”) access licence specified in Column 1 of Schedule 5 in contradiction of the access rule specified in Column 3 of Schedule 5.
 - (14) The Minister may reduce the maximum daily volume limit imposed by the rule under subclause (12) (a) if the Minister is satisfied that the reduced volume is satisfactory to meet the purpose referred to in that subclause.

Note. A reduction made under subclause (14) will be given effect by amending the mandatory conditions of the water supply work approval nominated by the access licence. Under section 102 (3) of the Act, the mandatory conditions of an approval may be imposed, amended, revoked or suspended by the Minister whenever it is necessary to do so in order to enable compliance with or to give effect to a relevant management plan.

45 Total daily extraction limits

This Plan establishes a total daily extraction limit (hereafter *TDEL*) of 24 ML/day for the A Class flow class for all access licences in the Indi Water Source.

Notes.

- 1 *Total daily extraction limit* is defined in the Dictionary.
- 2 TDELs are an assessment tool only and will be used by the Department to determine which access licences (if any) may require individual daily extraction limits. However, continued exceedance of the TDEL may result in the imposition of individual daily extraction limits under clause 46.

46 Individual daily extraction limits

- (1) At the commencement of this Plan, there are no individual daily extraction limits (hereafter *IDELs*) established for access licences in these water sources.
- (2) If the Minister is satisfied that an assessment of daily extraction under access licences for which a TDEL is established under clause 45 indicates that extraction under the access licences exceeds the TDEL, the Minister may amend the extraction component of an access licence under section 68A of the Act to impose an IDEL on any one or more of those access licences.

Note. *Individual daily extraction limit* is defined in the Dictionary.

Part 9 Rules for water supply work approvals

Notes.

- 1 This Part is made in accordance with sections 5, 21 and 95 of the Act.
- 2 Part 12 allows for amendments to be made to Part 9.

Division 1 Rules applying to water supply works

47 General

The rules in this Division apply to water supply work approvals for water supply works that may be used to take water from these water sources.

48 Granting or amending water supply work approvals

- (1) (Repealed)
- (2) An application for the granting or amending of a water supply work approval for an in-river dam on third or higher order streams within these water sources, except for the Dora Dora Water Source, may be considered, consistent with the principles of the Act.
- (3) A water supply work approval must not be granted or amended to authorise a water supply work which, in the Minister's opinion, is located within a pool, lagoon or lake that is not within a river, unless the Minister is satisfied that the location of the water supply work would result in no more than minimal impact on existing extractions within these water sources.
- (4) Subject to subclause (6), a water supply work approval must not be granted or amended to authorise a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source, unless the applicant is entitled to take water under a water access licence that nominates water supply work approval 50WA503603. The Eagle Creek System includes the Eagle Creek Cutting, Eagle Creek, Hudson Creek and two unnamed watercourses (hereafter the *Eagle Creek System*).
- (5) Subject to subclause (6), a water supply work approval must not be granted or amended to authorise a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source unless the applicant is entitled to

take water under a water access licence that nominates water supply work approval 50WA500048.

- (6) Subclauses (4) and (5) do not apply to the granting or amendment of a water supply work approval for a replacement water supply work used to take water from the Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source. For the purposes of this subclause, a *replacement water supply work* means a water supply work that replaces an existing water supply work constructed and used for the purpose of taking water from the Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source where:
- (a) the existing water supply work is authorised by a water supply work approval under the Act, and
 - (b) the replacement water supply work is to be constructed to extract water from the same location as the existing water supply work.

Division 2 (Repealed)

49 - 55 (Repealed)

Part 10 Access licence dealing rules

56 General

The access licence dealing rules established in this Part apply to all access licence dealings in these water sources.

Notes.

- 1 Access licence dealings in these water sources are subject to the provisions of the Act, the regulations, the access licence dealing principles and the access licence dealing rules established in this Part.

2 The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.57 Conversion of access licence to new category

- (1) This clause relates to dealings under section 71O of the Act in these water sources.
- (2) Dealings under section 71O of the Act are prohibited unless the conversion is from an unregulated river access licence to an unregulated river (high flow) access licence in the following water sources or management zones:
 - (a) Mannus Water Source,
 - (b) Tooma River Management Zone in the Tooma Water Source,
 - (c) Tumbarumba Water Source,
 - (d) Indi Water Source, and
 - (e) Maragle Water Source.
- (3) A dealing under subclause (2) is subject to the share component of the unregulated river (high flow) access licence being equal to the share component of the unregulated river access licence.

58 Assignment of rights dealings (within water sources)

- (1) This clause relates to dealings under section 71Q of the Act in these water sources.
- (2) Dealings under section 71Q of the Act are prohibited if the dealing involves an assignment of rights from:

- (a) an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310,
- (b) an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (c) an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tooma River Management

Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tooma River Management Zone at the date of commencement of this Plan plus 2,177,

- (d) an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
- (e) an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,233,
- (f) an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960,

- (g) an access licence that does not nominate a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on the Eagle Creek System within the Murray Below Mulwala Water Source, or
- (h) an access licence that does not nominate a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.

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

- (1) This clause relates to dealings under section 71R of the Act in these water sources.
- (2) Dealings under section 71R of the Act are prohibited if the dealing involves any of the following:
 - (a) the cancellation of an access licence with a share component specifying a water source in one extraction management unit in order to grant an access licence with a share component specifying a water source in another extraction management unit,
 - (b) the granting of a new access licence with a share component specifying a water source in one extraction management unit following the cancellation of an access licence with a share component specifying a water source in another extraction management unit,
 - (c) the granting of a new access licence with a share component that specifies one of the following water sources:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or

- (ix) Swampy Plain Water Source,
- (x) (repealed)
- (d) the granting of a new access licence with a share component that specifies the Indi Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 3,238,
- (e) the granting of a new access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,668,
- (f) the granting of a new access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 567,

- (g) the granting of a new access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an access licence with an extraction component that specifies the Tooma Tributaries Management Zone,
- (h) the granting of a new access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the dealing involves an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,233, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 960,
 - (iv) (repealed).
- (3) The share component of a new access licence specifying one of these water sources granted in accordance with subclause (2), shall be equal to:
 - (a) the share component of the cancelled access licence where a conversion factor has not been established by the Minister under section 71Z of the Act, or
 - (b) the share component of the cancelled access licence multiplied by a conversion factor established by the Minister, and published in an order made under section 71Z of the Act.

- (4) The extraction component of a new access licence granted in accordance with section 71R dealing shall not carry over the extraction component from the cancelled access licence.

60 Amendment of extraction component dealings

- (1) This clause relates to dealings under section 71S of the Act in these water sources.
- (2) Dealings under section 71S of the Act are prohibited if the dealing involves:
- (a) an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source being varied to specify the Mannus Upstream Management Zone in the Mannus Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310, or
 - (b) an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source being varied to specify the Mannus Downstream Management Zone in the Mannus Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,

- (c) an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source being varied to specify the Tooma River Management Zone in the Tooma Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tooma River Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tooma River Management Zone at the date of commencement of this Plan plus 2,177,
- (d) an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source being varied to specify the Tooma Tributaries Management Zone in the Tooma Water Source,
- (e) an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source being varied to specify the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,233, or
- (f) an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source being varied to specify the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or

- (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960.

61 Assignment of water allocations dealings

- (1) This clause relates to dealings under section 71T of the Act in these water sources.
- (2) Dealings under section 71T of the Act within the same water source are prohibited in these water sources if the dealing involves an assignment of water allocation:
 - (a) from an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Mannus Upstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310,
 - (b) from an access licence with an extraction component that specifies the Mannus Upstream Management Zone in the Mannus Water Source to an access licence with an extraction component that specifies the Mannus Downstream Management Zone in the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Mannus Downstream Management Zone from available water

- determinations or dealings under section 71T of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (c) from an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tooma River Management Zone from available water determinations or dealings under section 71T of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Tooma River Management Zone at the date of commencement of this Plan plus 2,177,
- (d) from an access licence with an extraction component that specifies the Tooma River Management Zone in the Tooma Water Source to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
- (e) from an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year, to exceed the sum of the share components of all access

- licences with extraction components that specified the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,233,
- (f) from an access licence with an extraction component that specifies the Tumbarumba Upstream Management Zone in the Tumbarumba Water Source to an access licence with an extraction component that specifies the Tumbarumba Downstream Management Zone in the Tumbarumba Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of water allocations credited to the water allocation accounts of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year, to exceed the sum of the share components of all access licences with extraction components that specified the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960,
 - (g) from an unregulated river (high flow) access licence to an access licence of another category,
 - (h) from an access licence that does not nominate a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on the Eagle Creek System within the Murray Below Mulwala Water Source, or
 - (i) from an access licence that does not nominate a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (3) Dealings under section 71T of the Act between different water sources are prohibited in these water sources if the dealing involves any of the following:
- (a) an assignment of water allocation from an access licence in one extraction management unit to an access licence in another extraction management unit,

- (b) an assignment of water allocation to an access licence in the:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
- (c) an assignment of water allocation to an access licence with a share component that specifies the Indi Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 3,238,
- (d) an assignment of water allocation to an access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Upstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share

- components of all access licences in the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310, or
- (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Downstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (e) an assignment of water allocation to an access licence with a share component that specifies the Maragle Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 567,
- (f) an assignment of water allocation to an access licence with a share component that specifies the Tooma Water Source, if:
- (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tooma River Management Zone from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in the Tooma River Management Zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an assignment of water allocation to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,

- (g) an assignment of water allocation to an access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Upstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,223, or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Downstream Management Zone from available water determinations or dealings under section 71T of the Act in that water year to exceed the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960.

62 Interstate transfer of access licences and assignment of water allocations

- (1) This clause relates to dealings under section 71U or 71V of the Act in these water sources.
- (2) Subject to subclause (3), dealings involving the interstate transfer of an access licence to or from these water sources may only be permitted where administrative arrangements have been agreed to, and put in place by NSW and the other State or Territory.
- (3) Dealings involving the interstate transfer of an access licence to these water sources are prohibited if the dealing involves any of the following:
 - (a) the granting of a new access licence with a share component that specifies one of the following water sources:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,

- (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
- (b) the granting of a new access licence with a share component that specifies the Indi Water Source, if:
- (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 3,238,
- (c) the granting of a new access licence with a share component that specifies the Mannus Water Source, if:
- (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,668,

- (d) the granting of a new access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of the share components of all access licences in the water source to exceed the sum of the share components of all access licences that existed in the water source at the date of commencement of this Plan plus 567,
- (e) the granting of a new access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the dealing involves the granting of an access licence with an extraction component that specifies the Tooma Tributaries Management Zone,
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves the granting of an access licence of a category other than unregulated river (high flow) with an extraction component that specifies the Tooma River Management Zone,
- (f) the granting of a new access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the dealing involves the granting of an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 1,233, or
 - (iii) the dealing would cause the sum of the share components of all access licences in the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all access licences that existed in that management zone at the date of commencement of this Plan plus 960.

- (4) The share component of a new access licence specifying one of these water sources granted in accordance with subclause (3) shall be equal to:
- (a) the share component equivalent of the cancelled access licence where a conversion factor has not been established by the Minister under section 71Z of the Act, or
 - (b) the share component equivalent of the cancelled access licence multiplied by a conversion factor established by the Minister and published in an order made under section 71Z of the Act.
- (5) Subject to subclause (6), dealings involving the interstate assignment of water allocations to or from access licences in these water sources may only be permitted where administrative arrangements have been agreed to and put in place by NSW and the other State or Territory.
- (6) Dealings involving the interstate assignment of water allocations to access licences in these water sources are prohibited if the dealing involves any of the following:
- (a) an assignment of water allocation to an access licence in the:
 - (i) Albury Water Source,
 - (ii) Dora Dora Water Source,
 - (iii) Hume Water Source,
 - (iv) Jingellic Water Source,
 - (v) Lower Wangamong Water Source,
 - (vi) Majors Water Source,
 - (vii) Murray Below Mulwala Water Source,
 - (viii) Ournie Welaregang Water Source, or
 - (ix) Swampy Plain Water Source,
 - (x) (repealed)
 - (b) an assignment of water allocation to an access licence with a share component that specifies the Indi Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or

- (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in that water source at the date of commencement of this Plan plus 3,238,
- (c) an assignment of water allocation to an access licence with a share component that specifies the Mannus Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Upstream Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310, or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mannus Downstream Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
- (d) an assignment of water allocation to an access licence with a share component that specifies the Maragle Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow), or
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the water source from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of

- all access licences in that water source at the date of commencement of this Plan plus 567,
- (e) an assignment of water allocation to an access licence with a share component that specifies the Tooma Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tooma River Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tooma River Management Zone at the date of commencement of this Plan plus 2,177, or
 - (iii) the dealing involves an assignment of water allocation to an access licence with an extraction component that specifies the Tooma Tributaries Management Zone in the Tooma Water Source,
 - (f) an assignment of water allocation to an access licence with a share component that specifies the Tumbarumba Water Source, if:
 - (i) the assignment of water allocation is to an access licence of a category other than unregulated river (high flow),
 - (ii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Upstream Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,223 or
 - (iii) the dealing would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Tumbarumba Downstream Management Zone from available water determinations or dealings under sections 71T or 71V of the Act in that water year, to exceed the sum of the share components of all access licences in the

Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960.

63 Nomination of water supply works dealings

- (1) This clause relates to dealings under section 71W of the Act in these water sources.
- (2) Dealings under section 71W of the Act are prohibited if the dealing involves:
 - (a) an access licence which nominates a water supply work located in the Mannus Downstream Management Zone of the Mannus Water Source being amended to nominate a water supply work located in the Mannus Upstream Management Zone of the Mannus Water Source if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences in the Mannus Upstream Management Zone to exceed the sum of the share components of all access licences that existed in the Mannus Upstream Management Zone at the date of commencement of this Plan plus 1,310,
 - (b) an access licence which nominates a water supply work located in the Mannus Upstream Management Zone of the Mannus Water Source being amended to nominate a water supply work located in the Mannus Downstream Management Zone of the Mannus Water Source if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Mannus Downstream Management Zone to exceed the sum of the share components of all access licences that existed in the Mannus Downstream Management Zone at the date of commencement of this Plan plus 1,668,
 - (c) an access licence which nominates a water supply work located in the Tooma Tributaries Management Zone of the Tooma Water Source being amended to nominate a water supply work located in the Tooma River Management Zone of the Tooma Water Source if:

- (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tooma River Management Zone to exceed the sum of the share components of all access licences that existed in the Tooma River Management Zone at the date of commencement of this Plan plus 2,177,
- (d) an access licence which nominates a water supply work located in the Tooma River Management Zone of the Tooma Water Source being amended to nominate a water supply work located in the Tooma Tributaries Management Zone of the Tooma Water Source,
- (e) an access licence which nominates a water supply work located in the Tumbarumba Downstream Management Zone of the Tumbarumba Water Source being amended to nominate a water supply work located in the Tumbarumba Upstream Management Zone of the Tumbarumba Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Upstream Management Zone to exceed the sum of the share components of all access licences that existed in the Tumbarumba Upstream Management Zone at the date of commencement of this Plan plus 1,233,
- (f) an access licence which nominates a water supply work located in the Tumbarumba Upstream Management Zone of the Tumbarumba Water Source being amended to nominate a water supply work located in the Tumbarumba Downstream Management Zone of the Tumbarumba Water Source, if:
 - (i) the access licence is of a category other than unregulated river (high flow), or
 - (ii) it would cause the sum of the share components of all access licences with extraction components that specify the Tumbarumba Downstream Management Zone to exceed the sum of the share components of all

- access licences that existed in the Tumbarumba Downstream Management Zone at the date of commencement of this Plan plus 960,
- (g) an access licence that does not nominate a water supply work located on the Eagle Creek System within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on the Eagle Creek System within the Murray Below Mulwala Water Source, or
 - (h) an access licence that does not nominate a water supply work located on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source to an access licence that nominates a water supply work on Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (3) Dealings under section 71W of the Act that involve the interstate nomination of water supply works by access licences in these water sources may only be permitted where administrative arrangements have been agreed to and put in place by NSW and the other State or Territory.
- (4) Dealings under section 71W of the Act that involve the interstate nomination of a water supply work by an access licence in these water sources are prohibited if the dealing involves an unregulated river (high flow) access licence.
- (5) (Repealed)
- (6) (Repealed)

Part 11 Mandatory conditions

Note. Part 12 allows for amendments to be made to Part 11.

Division 1 General

64 General

In this Part:

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to the address listed in Schedule 6 of this Plan or to the email address for enquiries on the Department's website,

Note. At the commencement of this Plan, the email address for enquiries on the Department's website is water.enquiries@dpi.nsw.gov.au.

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

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

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

Note. *Logbook* is defined in the Dictionary.

Division 2 Access licences

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

65 General

- (1) Access licences in these water sources must have mandatory conditions to give effect to the following:

- (a) the relevant water allocation account management rules specified in Division 1 of Part 8 of this Plan for the respective category or subcategory of access licence,

- (b) water must not be taken under an access licence otherwise than in compliance with the conditions applying to the water supply work approval for the water supply work through which water is to be taken,
 - (c) the holder of the access licence, must notify the Minister, in writing, immediately upon becoming aware of a breach of any condition of the access licence, and
 - (d) any other condition required to implement the provisions of this Plan.
- (2) Access licences in these water sources, excluding access licences that nominate only metered water supply works with a data logger, must have mandatory conditions to give effect to the following:
- (a) the holder of the access licence must keep a Logbook,
 - (b) the holder of the access licence must record the following in the Logbook:
 - (i) each date and period of time during which water was taken under the access licence,
 - (ii) the volume of water taken on that date,
 - (iii) the water supply work approval number of the water supply work used to take the water on that date,
 - (iv) the purpose or purposes for which the water taken on that date was used,
 - (v) (repealed)
 - (vi) for unregulated river access licences, unregulated river (high flow) access licences, domestic and stock access licences and local water utility access licences in the Murray Unregulated Water Sources, the volume of water taken in any three consecutive water years after the first water year of this Plan, by comparison to the maximum volume of water permitted to be taken in those years under clause 40 (3), and
 - (vii) (repealed)
 - (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
 - (c) the holder of the access licence must produce the Logbook to the Minister for inspection when requested, and

- (d) the holder of the access licence must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of an access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements from subclause (2).
- (4) All access licences of the subcategory “Aboriginal cultural” must have a mandatory condition that specifies that water must only be taken under the access licence by Aboriginal persons or Aboriginal communities for personal, domestic or communal purposes, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

Note. *Aboriginal person* is defined in the Dictionary.

- (5) An access licence for a project issued under Part 4 for State Significant Development or Part 3A for State Significant Infrastructure under Part 5.1 of the *Environmental Planning and Assessment Act 1979* must have mandatory conditions where required, to give effect to the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan.
- (6) If an access licence with a nominated water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the licence.

Note. The *Water Management (General) Regulation 2018* will impose a mandatory condition requiring record keeping on access licences and approvals by 1 December 2021.

- (7) Subclauses (2), (3) and (6) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

Note. *Mandatory metering equipment condition* is defined in clause 228 of the *Water Management (General) Regulation 2018*.

Division 3 Water supply work approvals

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

66 General

(1) Water supply work approvals for water supply works in these water sources must have mandatory conditions to give effect to the following:

- (a) the water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in Division 2 of Part 8 of this Plan,

Note. This paragraph applies to water supply works used to take water under an access licence. It does not apply to water supply works used to take water under an authority other than an access licence, such as the exemption under the regulations for water users in the Eagle Creek System, Bingera Creek and Bungaree Creek within Murray Below Mulwala Water Source.

- (b) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements:

- (i) the metering equipment must accurately measure and record the flow of all water taken through the water supply work,
- (ii) the metering equipment must comply with the Australian Technical Specification: ATS 4747, *Meters for non-urban water supply*, as may be updated or replaced from time to time,
- (iii) the metering equipment must be operated and maintained in a proper and efficient manner at all times,
- (iv) the metering equipment must be sited and installed at a place in the pipe, channel or conduit between the water source and the first discharge outlet. There must be no flow of water into or out of the pipe, channel or conduit between the water source and the metering equipment, and
- (v) any other requirements as to type, standard or other criteria for the metering equipment as specified in the notice,

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

- (c) any other conditions required to implement the provisions of the Plan.

(1A) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (1) (b) ceases to have effect in relation to the work on the day on which the condition applies to the approval.

(1B) Subclause (1) (b) and (1A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these

water sources in accordance with clause 230 (1) of the *Water Management Act (General) Regulation 2018*.

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

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

- (c) the holder of a water supply work approval must produce the Logbook to the Minister for inspection when requested, and
 - (d) the holder of a water supply work approval must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (2A) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclause (2) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (2B) Subclause (2) and (2A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.
- (3) All water supply work approvals must contain mandatory conditions to require that the water supply work must not be used to take water unless, before water is taken, the holder of the water supply work approval confirms that cease to take conditions do not apply. Where the holder is required to keep a Logbook, the holder must record that confirmation and the means of confirmation (such as visual inspection or internet search), in the Logbook.
- (4) Water supply work approvals for runoff harvesting dams and in-river dams must contain a mandatory condition that requires approval holders to comply with any direction by the Minister to modify or remove the dam to ensure that the capability of the dam to capture water is reduced to reflect any reduction in share components arising from:
- (a) a dealing under section 71Q or 71W of the Act,
 - (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent cancellation of that access licence under section 77A (6) of the Act,
 - (c) the amendment of the share component of an access licence by the Minister under section 68A of the Act, or
 - (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act.

(5) (Repealed)

67 (Repealed)

DRAFT

Part 12 Amendment of this Plan

68 General

- (1) Amendments specified throughout this Plan and in this Part, are amendments authorised by this Plan.
- (2) Amendments authorised by this Plan are taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.
Note. For example, if Part 1 is amended to add a new management zone, this may require amendment to other parts of this Plan to include rules for that management zone.
- (3) An amendment authorised by this Plan which results in a variation of the bulk access regime, is an amendment authorised by this Plan for the purposes of sections 87 (2) (c) and 87AA of the Act.

69 Part 1

Part 1 may be amended to do any of the following:

- (a) apply this Plan to new or additional water sources or water management areas (including part thereof) or modify (including to amend the boundaries) or remove an existing water source or water management area (including part thereof) from this Plan,
- (b) add, remove or modify a management zone, including the water sources to which a management zone applies and the boundaries of such a zone,
- (c) add, remove or modify an extraction management unit, including the water sources to which an extraction management unit applies, and
- (d) amend the Plan Map.

69A Part 6

Division 3 of Part 6 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limits for these water sources and the New South Wales Murray Regulated River Water Source.

70 Part 8

Division 2 of Part 8 of this Plan may be amended to do any of the following:

- (a) (repealed)
- (b) establish new flow classes to apply to users on Swampy Plain River upstream of Khancoban Pondage in the Swampy Plain Water Source, when real-time data for the Swampy Plain River at Khancoban 2 gauge (401501) becomes publicly available, such that the top of the Very Low Flow Class is at the 95th percentile flow or a lesser flow at that gauge,
- (c) establish new or additional flow classes in any water source where management zones are added or in any water source or management zone that is amended during the term of this Plan as specified in clause 69,
- (d) amend clause 44:
 - (i) repealed,
 - (ii) to specify alternate access rules for lagoons, lakes, in-river pools and other lentic water bodies, or
 - (iii) (repealed),
- (e) establish or assign TDELS in these water sources or management zones following the imposition of an adaptive environmental water condition on an access licence that requires the water to be left in the water source or management zone for environmental purposes,
- (f) establish or assign TDELS in these water sources or management zones to protect a proportion of flow within each flow class for the environment,
- (g) amend or remove TDELS if TDELS have been established or assigned,
- (h) include rules for the establishment, assignment and removal of IDELS,
- (i) amend clause 44 to remove the existing access rules where TDELS and/or IDELS have been established under paragraphs (f) and (h) to protect a proportion of flow within each flow class for the environment, or
- (j) amend clause 44 to reinstate access rules that applied at the commencement of this Plan, where TDELS and IDELS have been removed under paragraphs (g) and (h).

71 Part 9

Part 9 may be amended to do any of the following:

- (a) amend clause 48 (2) to specify additional water sources or management zones or amend the water sources or management zones where water supply work approvals must not be granted or amended to authorise an in-river dam on third or higher order streams, or
- (b) include further restrictions on the granting or amending of water supply works,
- (c) (repealed)
- (d) (repealed)
- (e) (repealed)
- (f) amend the definition of a replacement water supply work in clause 48 (6).

71A Part 10

Part 10 may be amended to provide for the conversion of regulated river (high security) access licences that specify regulated river water sources connected to, and downstream of, these water sources to access licences with share components that specify these water sources.

72 Part 11

Part 11 may be amended in relation to metering and record-keeping including amendments in relation to requirements for Logbooks.

72A Dictionary

The Dictionary may be amended to add, modify and/or remove a definition.

73 Schedules

- (1) (repealed)
- (2) Schedule 2 may be amended to do any of the following:
 - (a) add a new access licence to clause 1 of Schedule 2, provided that a written request has been made to the Minister and the Minister is satisfied that extraction under the access licence is for a purpose listed in clause 44 (12) (a) and that purpose was specified on or referred to in the conditions of the former *Water Act 1912* entitlement that was replaced by the access licence or referred to in its conditions,
 - (b) add a local water utility access licence or an access licence of the subcategory “Town water supply” to clause 2 of Schedule 2, provided the Minister is

satisfied that the water supply system used to take, store and deliver water has not undergone major augmentation since the commencement of this Plan,

- (c) remove an access licence or former *Water Act 1912* entitlement from Schedule 2 if:
 - (i) an access licence dealing results in water being taken under the licence from a different location,
 - (ii) an alternative water supply is obtained, or
 - (iii) the licence is surrendered or cancelled or its purpose ceases to exist, or
 - (d) remove a local water utility access licence or an access licence of the subcategory “Town water supply” or former *Water Act 1912* entitlement from clause 2 of Schedule 2 if the Minister is satisfied that the water supply system used to extract, store and deliver water has undergone major augmentation since the commencement of this Plan.
- (3) Schedule 2 may be deleted if the Minister is satisfied that it is no longer required.
 - (4) (Repealed)
 - (5) (Repealed)
 - (6) Schedule 5 may be amended to change the access rules and to add or remove licences.

74 Other

- (1) This Plan may be amended to provide rules for the following:
 - (a) (repealed)
 - (b) the management of floodplain harvesting within these water sources,
 - (c) the shepherding of water,
Note. *Shepherding* is defined in the Dictionary.
 - (d) any new category of access licence established for the purpose of stormwater harvesting, provided that the amendment does not affect the long-term average annual extraction limit specified in this Plan,
 - (e) the interception of water before it reaches a stream or aquifer by plantations or other means, or

- (f) conditions on the taking of water from Eagle Creek System, Bingera or Bungaree Creeks within the Murray Below Mulwala Water Source.
- (2) (Repealed)
- (3) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.
- (4) This Plan may be amended to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth.
- (5) This plan may be amended after year 5 to provide for rules for the protection of water dependent Aboriginal cultural assets, including:
 - (a) the identification of water dependent Aboriginal cultural assets in a Schedule to this Plan,
 - (b) amendments to the access rules to protect water dependent Aboriginal cultural assets,
 - (c) restrictions on the granting and amendment of water supply works to protect water dependent Aboriginal cultural assets, and/or
 - (d) amendments to the dealing rules to protect water dependent Aboriginal cultural assets.
- (6) This Plan may be amended to enable a water resource plan to be accredited under the *Water Act 2007* (Cth).

Schedule 1 Dictionary

Note. Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the Regulations have the same meaning in this Plan see Clause 6 (2).

Aboriginal person has the same meaning as under section 4 of the *Aboriginal Land Rights Act 1983*.

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

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

baseline diversion limit has the same meaning as it has in section 1.07 of the Basin Plan.

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

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

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

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

flow regimes means, collectively, the magnitude, duration, frequency and patterns of flow that characterise a river or water source.

full containment volume means the volume of water that is impounded in the pool, lagoon or lake when the level of water in the pool, lagoon or lake is at the high water mark.

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.

in-river dam means a dam located in a river created by a structure authorised by a water supply work approval.

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

in-river pool means a natural pool, lagoon or lake that is within a river or stream (regardless of stream size) and excludes:

- (a) a pool that is on a flood-runner or floodplain, or
- (b) a pool that is on an effluent that only begins to flow during high flows

Note. In the Dictionary to the Act, a lake is defined to include:

- (a) a wetland, a lagoon, a saltmarsh and any collection of still water, whether perennial or intermittent and whether natural or artificial, and
- (b) any water declared by the regulations to be a lake, whether or not it also forms part of a river or estuary, but does not include any water declared by the regulations not to be a lake.

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

management zone is an area within a water source in which rules particular to that management zone will apply, for example daily extraction limits and restrictions on dealings.

New South Wales Murray SDL resource unit has the same meaning as provided for in section 6.02 of the Basin Plan.

off-river pool means a natural pool, lagoon or lake that is:

- (a) not within a river or stream (regardless of stream size),
- (b) located on a flood-runner or floodplain, or
- (c) located on an effluent that only commences to flow during high flows.

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

runoff harvesting dam means a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in the harvestable rights orders made under Division 2 of Part 1 of Chapter 3 of the Act and published in the NSW Government Gazette No 40 on 31 March 2006 at page 1628. For the purposes of this Plan, references to runoff harvesting dams as water supply works include any associated pumps or other works which take water from the dam. For the purpose of clarity, this definition includes dams that are also used to store water diverted into the dam from a river or other source of water.

shepherding means the delivery of a calculated volume of water that was created by the non-activation/reduced extraction at a nominated licence location to a more downstream location, after consideration of losses, where it will be made available for extraction or use for the environment.

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

target ecological processes are processes that support a range of ecological communities, such as connecting flows or flow events that can mobilise nutrients and other water-borne materials within and between water sources. These processes must be easily monitored and measurable.

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

visible flow means a flow equivalent to the full flow of water through a 200 mm pipe.

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

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

Schedule 2 Access licences used to take surface water exempt from cease to pump rules

1 General

This clause applies to each access licence which replaces a *Water Act 1912* entitlement listed in the table below.

<i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan
50SL075423
50SL075510
50SL075386
50SL046469
50SL075561
50SL040857

2 Local water utility access licences and access licences of subcategory “Town water supply”

This clause applies to each access licence which replaces a *Water Act 1912* entitlement listed in the table below.

<i>Water Act 1912</i> entitlements that will be replaced by local water utility access licences or access licences of the subcategory “Town water supply” on commencement of this Plan
50SL075708
50SL075439

Schedule 3 (Repealed)

DRAFT

Schedule 4 (Repealed)

DRAFT

Schedule 5 Access rules for local water utility access licences or unregulated river (“Town water supply”) access licences subject to clause 44 (6)

Column 1	Column 2	Column 3
<i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan	Water Source	Access rule
50SL075708	Tumbarumba Water Source	Water must not be taken unless there is a flow equal to or greater than 5 megalitres at the Tumbarumba 2 gauge (No 401007) on the Tumbarumba Creek.
50SL075439	Tumbarumba Water Source	Water must not be taken using works on Burra Creek unless a flow equal to or greater than 2 megalitres is maintained at all times downstream of any pumpsite or diversion work. Water must not be taken using works on Pound Creek or Paddys River unless a flow equivalent to the full flow of a 100 millimetre pipe set at bed level is maintained at all times downstream of any pumpsite or diversion work.

Schedule 6 Office

NSW Department of Planning, Industry and Environment – Water
Suite 5B/620 Macauley Street
Albury NSW 2640

DRAFT

Appendix 2 (Repealed)

DRAFT

Appendix 3 Access licences with pre-existing cease to pump thresholds that are higher than the upper limit of the relevant cease to take conditions

It is expected that those access licences which replace a *Water Act 1912* entitlement listed in Column 1 of the table below and which have a share component that specifies the water sources listed in Column 2 of the table below, will have the access rule specified in Column 3 imposed as a mandatory condition on all water supply work approvals nominated by that access licence to give effect to clause 44 (5) of this Plan.

Column 1	Column 2	Column 3
<i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan	Water Source	<i>Water Act 1912</i> conditions
50SL033472	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Ck, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Portion 71, Parish of Mellool and road adjacent to portion 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the office of the Department of Infrastructure Planning and Natural Resources. Notwithstanding the above, the authorised work may be used for the purpose of irrigation from the storage of the dam presently authorised by licence no 50SL31670 provided that any natural flow entering the said storage is maintained in Bullockhide Ck downstream from the said dam in accordance with the conditions of the said licence no 50SL31670.
50SL049957	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Ck, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Portion 71, Parish of Mellool and road adjacent to portion 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the NSW Office of Water.

		Notwithstanding the above, water diverted from the Murray River by the Bullockhide Ck Water Supply Syndicate may be abstracted from Bullockhide Ck for irrigation purposes provided the prior consent of that Syndicate is obtained.
50SL038645	Murray Below Mulwala Water Source	When a natural flow is entering the storage of the dam, the pipe referred to in condition 8 shall be so operated as to maintain a flow in Bullockhide Ck downstream of the dam equivalent to the natural flow entering the storage for the time being or the capacity of the said pipe, whichever is the lesser, provided however, that the pipe may be closed when the natural flow has reached the storage of the licensed dam located on Portion 71, parish of Mellool and road adjacent to Portion 13, Parish of Toolmah, both County of Wakool and the level of the water stored in that dam is higher than 2.5 metres below the level of the bench mark established on a box tree on the left bank of Bullockhide Ck near that dam and particulars of which are retained in the Office of the NSW Office of Water.
50SL048135	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Creek, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Lot 71, Parish of Mellool and road adjacent to Lot 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the Office of the NSW Office of Water. Notwithstanding the above, water diverted from the Murray River by the Bullockhide Creek Water Supply Syndicate may be abstracted from Bullockhide Creek for irrigation purposes, provided the prior consent of that syndicate is obtained.
50SL048136	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Creek, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Lot 71, Parish of Mellool and road adjacent to Lot 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the Office of the NSW Office of Water. Notwithstanding the above, water diverted from the

		Murray River by the Bullockhide Creek Water Supply Syndicate may be abstracted from Bullockhide Creek for irrigation purposes, provided the prior consent of that syndicate is obtained.
50SL048147	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Creek, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Lot 71, Parish of Mellool and road adjacent to Lot 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the Office of the NSW Office of Water. Notwithstanding the above, water diverted from the Murray River by the Bullockhide Creek Water Supply Syndicate may be abstracted from Bullockhide Creek for irrigation purposes, provided the prior consent of that syndicate is obtained
50SL038680	Murray Below Mulwala Water Source	When a natural flow is entering the storage of the dam, the pipe referred to in condition 8 shall be so operated as to maintain a flow in Bullockhide Ck downstream of the dam equivalent to the natural flow entering the storage for the time being or the capacity of the said pipe, whichever is the lesser, provided however, that the pipe may be closed when the natural flow has reached the storage of the licensed dam located on Portion 71, parish of Mellool and road adjacent to Portion 13, Parish of Toolmah, both County of Wakool and the level of the water stored in that dam is higher than 2.5 metres below the level of the bench mark established on a box tree on the left bank of Bullockhide Ck near that dam an particulars of which are retained in the Office of the NSW Office of Water.
50SL038669	Murray Below Mulwala Water Source	When there is a natural flow in Bullockhide Creek, the authorised work shall not be used for the purpose of irrigation unless the said natural flow has reached the storage of the licensed work located on Lot 71, Parish of Mellool and road adjacent to Lot 13, Parish of Toolmah, both County of Wakool and the level of the water in that dam is higher than 2.5 metres below the level of a bench mark established on a box tree on the left bank of the watercourse near that dam and particulars of which are retained in the Office of the NSW Office of Water.
50SL038744	Murray Below Mulwala Water	When a natural flow is entering the storage of the dam, the pipe referred to in condition 9 shall be so

	Source	operated as to maintain a flow in Bullockhide Ck downstream of the dam equivalent to the natural flow entering the storage for the time being or the capacity of the said pipe, whichever is the lesser, provided however, that the pipe may be closed when the natural flow has reached the storage of the licensed dam located on Portion 71, parish of Mellool and road adjacent to Portion 13, Parish of Toolmah, both County of Wakool and the level of the water stored in that dam is higher than 2.5 metres below the level of the bench mark established on a box tree on the left bank of Bullockhide Ck near that dam and particulars of which are retained in the Office of the NSW Office of Water.
50SL038560	Murray Below Mulwala Water Source	When a natural flow is entering the storage of the upstream dam, the pipe shall be so operated as to maintain a flow in Bullockhide Creek downstream of the dam equivalent to the natural flow entering the storage for the time being or the capacity of the said pipe, whichever is the lesser, provided however, that the pipe may be closed when the natural flow has reached the storage of the downstream dam and the level of the water stored in that dam is higher than 2.5 metres below the level of the bench mark established on a box tree on the left bank of Bullockhide Creek near the downstream dam and particulars of which are retained in the Office of the Department of Land & Water Conservation.
50SL042817	Murray Below Mulwala Water Source	When a natural flow is entering the storage of the dam, the pipe shall be so operated as to maintain a flow in Bullockhide Creek downstream of the dam equivalent to the natural flow entering the storage for the time being or the capacity of the said pipe, whichever is the lesser, provided however, that the pipe may be closed when the natural flow has reached the storage of the licensed dam located on Portion 71, Parish of Mellool and road adjacent to Portion 13, Parish of Toolmah, both County of Wakool and the level of the water stored in that dam is higher than 2.5 metres below the level of the bench mark established on a box tree on the left bank of Bullockhide Creek near that dam and particulars of which are retained in the Office of NSW Office of Water.