

2008 No 13



New South Wales

Water Sharing Plan for the Lower Lachlan Groundwater Source Amendment Order 2008

under the

Water Management Act 2000

Pursuant to section 45 (1) of the *Water Management Act 2000*, I, NATHAN REES MP, Acting Minister for Climate Change, Environment and Water, with the concurrence of the Minister for Primary Industries, make the following Order.

Dated this eleventh day of January 2008.

HON NATHAN REES, MP
Acting Minister for Climate Change, Environment and Water

Explanatory note

This Order amends the *Water Sharing Plan for the Lower Lachlan Groundwater Source 2003 Order* as published in the Government Gazette of 21 February 2003 and as amended.

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Clause 1

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under the

Water Management Act 2000

1 Name of Order

This Order is the *Water Sharing Plan for the Lower Lachlan
Groundwater Source Amendment Order 2008*.

2 Commencement

This Order commences on 1 February 2008.

3 Amendment of Water Sharing Plan for the Lower Lachlan Groundwater Source 2003

The *Water Sharing Plan for the Lower Lachlan Groundwater Source
2003* is amended as set out in Schedule 1.

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[1] Clause 3

Omit the clause. Insert instead:

3 Date of commencement

This Plan takes effect on 1 February 2008, and ceases on the 30 June 2018.

[2] Subclause 12 (d)

Omit the subclause. Insert instead:

- (d) reduce the total share component of access licences to the final extraction limit,

[3] Clause 16

Omit the clause. Insert instead:

16 Recharge

- (1) For the purposes of section 5 (3) of the Act, the overall basis for water sharing in this Plan is the average annual recharge to this groundwater source, estimated to be 108,000 megalitres per year (hereafter ML/yr) plus the requirements for basic landholder rights at the commencement of this Plan.

Note. The recharge provided for in this subclause is uncertain and the Natural Resources Commission has recommended a precautionary approach and the average annual recharge has been set at 108,000 ML/yr.

Note. Recharge west of the Cobb Highway that infiltrates into unusable saline aquifers is excluded from the average annual recharge in this clause.

- (2) Pursuant to section 45 (1) (b) of the Act, the average annual recharge for this groundwater source established in subclause (1) may be varied by the Minister after 30 June 2010, following further recharge studies undertaken by the Minister.
- (3) The results of the studies undertaken in subclause (2) must be independently reviewed.
- (4) A water management committee, or in its absence an advisory committee established by the Minister to include representatives of domestic and stock rights groundwater users, water utilities, irrigation, industry, Aboriginal people, environmental groups and others, should:

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- (a) advise the Minister on the terms of reference and selection of consultants for the independent review established in subclause (3), and
 - (b) advise the Minister by 31 March 2010 on any changes to recharge estimates based on the study and the outcomes of the independent review.
- (5) The Minister must take into account the review in subclause (3), and the advice provided in accordance with subclause (4), before making a variation under subclause (2).

Note. The extent of impact of these changes on access by licence holders is limited in clause 28.

[4] Clause 18 Environmental health water

Omit the clause. Insert instead:

18 Planned environmental water

Note. It is anticipated that the planned environmental water provisions in this Part and management of local impact provisions in Part 10 of this Plan will also protect heritage sites and cultural values associated with groundwater (see clause 11 (d)).

- (1) Subject to Part 10 Division 2 of this Plan, the physical water contained in the storage component of this groundwater source, minus the amount required for supplementary water access permitted under clause 25D, as varied by clause 29, will be reserved for the environment.

Note. Access to water under supplementary water access licences in this water source will not be permitted after 30 June 2017 and from that date the physical water contained in the storage component of this groundwater source will be reserved for the environment.

- (2) The Minister may under section 45 (1) (b) of the Act amend subclause (1) after 30 June 2010 to include a portion of the average annual recharge to this groundwater source as planned environmental water, based on further studies of groundwater ecosystem dependency undertaken by the Minister.

Note. The Minister should undertake further studies of the groundwater dependency of ecosystems within this Groundwater Source, as recommended by the Natural Resources Commission, including any potential groundwater ecosystem located beyond this Groundwater Source that may be affected by the management of this Groundwater Source.

Note. The extent to which this change may impact on access licence holders is limited by clause 28.

Note. The studies may recommend management options other than reservation of a portion of recharge to protect groundwater dependant ecosystems.

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- (3) The results of the studies undertaken in subclause (2) must be independently reviewed.
- (4) A water management committee, or in its absence an advisory committee established by the Minister to include representatives of domestic and stock rights groundwater users, water utilities, irrigation, industry, Aboriginal people, environmental groups and others, should:
 - (a) advise the Minister on the terms of reference and selection of consultants for the independent review established in subclause (3), and
 - (b) advise the Minister by 31 March 2010 on any changes to planned environmental water based on the study and the outcomes of the independent review.
- (5) The Minister should take into account the review in subclause (4), and the advice provided in accordance with subclause (3), before making a variation under subclause (2).

[5] Clause 19 Supplementary environmental water

Omit the clause.

[6] Clause 20 Adaptive environmental water

Omit the clause. Insert instead:

20 Adaptive environmental water

- (1) Water may be committed in this water source for environment purposes by an adaptive environmental water condition pursuant to section 8B of the Act.
- (2) The holder of an access licence may request that the Minister impose an adaptive environmental water condition in respect of the whole or a part of the share component of the access licence.
- (3) The condition imposed under subclause (2) will continue until the holder requests its removal.
- (4) An access licence may be held by the Minister, a catchment management authority or other public body to the extent that the whole or part of that access licence has been surrendered as a result of water use savings made by works or other improvements, subject to:
 - (a) the share component of the access licence held being equal to the value of the water use savings made, and

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- (b) an adaptive environmental water condition being imposed on the access licence and that condition not being removed.
 - (5) The adaptive environmental water condition specified in subclause (1) and the plan for implementation of that condition, as required by section 8E (7) of the Act:
 - (a) are to be established by the Minister, and
 - (b) shall be such as to ensure that there will be a contribution to the objectives of this Plan.
 - (6) The allocation of water for access licences with an adaptive environmental water condition will be in accordance with the available water determination for the relevant category of access licence under this Plan.
 - (7) If the adaptive environmental water condition on an access licence requires the water to be left in the water source for environmental purposes, then the water allocation account is to be debited when the water is available in accordance with the adaptive environmental water condition on the access licence.
 - (8) If the adaptive environmental water condition requires the environmental water to be taken from the water source then the water allocation account is to be debited when it is taken.
 - (9) For the purposes of auditing compliance with the long-term extraction limit under this Plan, the delivery of water pursuant to an access licence that has been committed as adaptive environmental water shall be accounted for as extraction where it occurs pursuant to a licence under subclause (7) or subclause (8).
 - (10) To the extent that the water allocation of an access licence which is subject to an adaptive environmental water condition is not required to meet the requirement of the condition, it may be the subject of an assignment dealing in accordance with the Dealings Rules in this Plan.
 - (11) Notwithstanding subclause (10) an access licence with an adaptive environmental water condition may be the subject of any other dealing permitted by the Dealing Rules in this Plan, provided the benefit to the environment provided for in the adaptive environmental condition is not diminished.
 - (12) At the commencement of this Plan, there were no access licences with an adaptive environmental water condition in this water source.

[7] Clause 21 Basic landholder rights

Omit the clause. Insert instead:

21 Basic landholder rights

- (1) This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.
- (2) If a landholder is unable to exercise their basic landholder rights due to interference of their supply by extraction authorised by access licences:
 - (a) the Minister may amend a water supply works approval to allow the landholder's affected bore to be replaced or deepened to ensure continuing access to water for basic landholder rights, or
 - (b) the Minister may amend another water supply works approval so that basic landholder rights water may be supplied by an alternative water supply work during critical times.

Note. The Minister may, by order made under section 323 of the Act, impose temporary restrictions on basic landholder rights when it is necessary to do so in the public interest, such as to cope with a period of sever water shortage or threat to public health or safety.

- (3) In accordance with the legislative requirements, the Minister may impose a charge on access licence holders in this groundwater source under section 114 of the Act, as a contribution to the costs of activities or works associated with subclause (2).
- (4) Basic landholders rights exercised under section 52 of the Act must be exercised in accordance with any guidelines established by the Minister with respect to the reasonable use of water for domestic consumption and stock watering by landholders authorised to use water for either or both of those purposes.

Note. The Minister may enforce any reasonable use guidelines by serving orders on individual landholders under section 325 of the Act. The Minister may also order individual landholders accessing basic landholder rights to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health under section 328 of the Act.

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[8] Clause 25 Estimate of water requirements

Omit the clause. Insert instead:

25 Requirements for water for extraction under access licences

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

Note. The amount of water specified in this Part represents the total volumes or total shares specified in the share components on access licences in this groundwater source. The actual volume of water available at any time will depend on climate, access licence priority and the rules in this Plan.

[9] Insert the following after clause 25:

25A Share components of domestic and stock access licences

It is estimated that at the time of commencement of this Plan, the share components of domestic and stock access licences authorised to extract water from this groundwater source will total 24 ML/yr.

25B Share components of local water utility access licences

It is estimated that at the time of commencement of this Plan, the share components of local water utility access licences authorised to extract water from this groundwater source will total 2,322 ML/year made up of:

- (a) 2,247 ML/yr held by Carrathool Shire Council, and
- (b) 75 ML/year held by Central Darling Shire Council.

Note. Clause 25B represents the total volumes specified on access licences in this groundwater source. It is not a commitment to supply that water.

25C Share components of aquifer access licences

- (1) For each entitlement referred to in Column 1 of Schedule 4 applying to the licences listed in Column 2 of Schedule 4 that are to become aquifer access licences in this groundwater source at the commencement of this Plan, the share component is to be equal to the share component in Column 3 of Schedule 4.
- (2) For those Water Act property entitlements not listed in Column 1 of Schedule 4 that are to become aquifer access licences in this groundwater source at the commencement of this Plan, the total share component (TSC) will be calculated using the following formulae:

$$TSC = R - LWU - SD - \Sigma EXC$$

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Where:

- (a) **R** is the recharge established in clause 16 (1) plus the requirements for basic landholder rights at the commencement of this Plan,
 - (b) **LWU** is the total of local water utility access licence share components in this groundwater source at the commencement of this Plan,
 - (c) **SD** is the share component for stock and domestic access licences in this groundwater source at the commencement of this Plan, and
 - (d) **ΣEXC** is the sum of share components specified in Column 3 of Schedule 4.
- (3) For those Water Act property entitlements not listed in Column 1 of Schedule 4 that are to become aquifer access licences in this groundwater source at the commencement of this Plan, the individual share component will be calculated using the following formulae:

$$\text{Share component} = \text{IAC} + \text{AC} + \text{EC}$$

Where:

- (a) **IAC** is the inactive component and:

$$\text{IAC} = (\text{WAE} - \text{HoE}) \times 0.09$$

Where:

- (i) **WAE** is the Water Act entitlement, and
- (ii) **HoE** is the history of extraction for each Water Act property entitlement defined in subclause (5).

- (b) **AC** is the active component and:

$$\text{AC} = (\text{TSC} - \Sigma \text{IAC}) \times \text{HoE} / \Sigma \text{HoE}$$

provided that AC is capped if:

for a Water Act property entitlements for which a history of extraction is defined for a late developer in subclause (4) $\text{WAE}_{LD} \times 0.45$ is less than IAC + AC then the active component

$$\text{AC} = (\text{WAE}_{LD} \times 0.45) - \text{IAC},$$

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or if:

for any other Water Act property entitlement $WAE \times 0.72$ is less than $IAC + AC$ then the active component

$$AC = (WAE \times 0.72) - IAC$$

Where:

- (i) TSC is the total share component calculated in subclause (2),
 - (ii) ΣIAC is the sum of the inactive components calculated in subclause (3) (a),
 - (iii) ΣHoE is the sum of the history of extractions for each Water Act property entitlement defined in subclause (5) for property entitlements not listed in Column 1 of Schedule 4, and
 - (iv) WAE_{LD} is the Water Act property entitlement for which a history of extraction is defined for a late developer in subclause (4).
- (c) EC is the entitlement component and equals zero for those aquifer access licences where the share component is capped in subclause (3) (b), otherwise

$$EC = WAE / \sum WAE_{NC} \times (TSC - \Sigma IAC - \Sigma AC)$$

provided that EC is capped if:

for a Water Act property entitlements for which a history of extraction is defined for a late developer in subclause (4) $WAE_{LD} \times 0.45$ is less than $IAC + AC + EC$ then the entitlement component

$$EC = (WAE_{LD} \times 0.45) - IAC - AC,$$

or if,

for any other Water Act property entitlement $WAE \times 0.72$ is less than $IAC + AC + EC$ then the entitlement component

$$EC = (WAE \times 0.72) - IAC - AC$$

Where:

- (i) ΣWAE_{NC} is the sum of the Water Act property entitlements where the share component is not capped in subclause (3) (b), and

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- (ii) ΣAC is the sum of the active components calculated in subclause (3) (b)
- (4) For the purposes of subclause (3) history of extraction for each late developer Water Act Property entitlement is equal to the minimum of:
- (a) for entitlements where the average of the 3 highest years of extraction from 1998/99–2003/04 is less than half of the Water Act entitlement and the licensee developed irrigation infrastructure after the 30 June 2003 the daily bore capacity in megalitres multiplied by 150, or
 - (b) for entitlements where the average of the 3 highest years of extraction from 1998/99–2003/04 is less than half of the Water Act entitlement, the licensee developed irrigation infrastructure after the 30 June 2003 and the licensee did not have a surface water entitlement; the area developed for irrigation multiplied by 6.5 ML per hectare, or
 - (c) for entitlements where the average of the 3 highest years of extraction from 1998/99–2003/04 is less than half of the Water Act entitlement, the licensee developed irrigation infrastructure after the 30 June 2003 and the licensee had a surface water entitlement the area developed for groundwater irrigation multiplied by 6.5 ML per hectare where the area developed for groundwater irrigation is calculated from the formulae:

$$\frac{\text{Area Developed (ha)} \times \text{Water Act 1912 entitlement}}{\text{Water Act 1912 entitlement} + \text{Water Act 1912 surface water entitlement} \times 0.61}$$

- (5) For the purposes of subclause (3) and for clause 25D history of extraction (HoE) for each Water Act Property entitlement is equal to the lesser of:
- (a) the Water Act entitlement, or
 - (b) the greater of:
 - (i) the average of the 3 highest years of extraction from 1998/99–2003/04; or
 - (ii) history of extraction for late developers defined in subclause (4).
- (6) It is estimated that at the time of commencement of this Plan the share components of access licences established under this clause will total 105,654.

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25D Share components of supplementary water access licences

- (1) Those Water Act entitlements that are to be converted to an aquifer access licence in this groundwater source under clause 25C may also receive a supplementary water access licence where history of extraction (as defined in subclause 25C (5)) is greater than the share component determined in clause 25C.
- (2) The share component of a supplementary water access licence created under subclause (1) will be established for those licenses in accordance with the following formula:

$$\text{Share component (SWAL)} = \text{HoE} - \text{SC}_{\text{AAL}}$$

Where:

- (a) **HoE** is the history of extraction for each Water Act property entitlement defined in subclause (5),
 - (b) **SC_{AAL}** is the share component of the aquifer access licence established under subclauses 25C.
- (3) It is estimated that at the time of commencement of this Plan the sum of the share components of supplementary water access licences established under subclause (2) will total 21,252 megalitres.

Note. Not all aquifer access licences will receive a supplementary water access licence. Only those licences that have a HoE as defined in subclauses 25C (5) which is greater than their new Aquifer Access Licence Share component will receive supplementary water access licences.

25E Changes to share components

- (1) This Plan recognises that the total requirements for water for extraction within this groundwater source may change during the term of this Plan as a result of:
 - (a) the granting, surrender or cancellation of access licences, or
 - (b) the variation of local water utility access licences under section 66 of the Act.
- (2) Pursuant to section 68A of the Act the share component of each supplementary water access licence will be reduced to 0 ML on 1 July 2018.
- (3) Pursuant to section 77A of the Act supplementary water access licences will be cancelled after 1 July 2018.

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[10] Clause 26 Rules for granting access licences

Omit the clause. Insert instead:

26 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b), 61 and 63 of the Act, having regard to the limits to water availability in this groundwater source and the need to protect groundwater dependent ecosystems, aquifer integrity and groundwater quality.
- (2) Applications for access licences may be made and access licences granted in this groundwater source if they are for:

- (a) a specific purpose access licence for which application is provided for under clause 19 of the *Water Management (General) Regulation 2004* (hereafter **the Regulation**) in accordance with section 61 (1) (a) of the Act,

Note. At the commencement of this Plan, clause 19 of the Regulation provides for the following specific purpose access licences to be applied for:

- (i) a local water utility access licence (subcategory "domestic and commercial"), for the purpose of domestic consumption and commercial activities,
 - (ii) a domestic and stock access licence (subcategory "domestic"), for the purpose of domestic consumption,
 - (iii) an aquifer access licence (subcategory "town water supply"), for the purpose of supply to communities for domestic consumption and commercial activities, and
 - (iv) any category of specific purpose access licence (subcategory "Aboriginal cultural"), for Aboriginal cultural purposes.

Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is rapid growth in population.

- (b) an access licence with a zero share component in accordance with sections 61 (1) (b) and 63 (5) of the Act,
 - (c) an access licence that may be granted in accordance with a dealing that is permitted by Part 11 of this Plan, or
- (3) In applying for a new access licence, the applicant must establish the purpose and circumstances relating to that access licence, and that the share and extraction component sought will be the minimum required to meet that purpose and circumstance.
- (4) Access licences granted under this Part cannot be used to extract water through a water supply work (bore) located in areas where the extraction authorised by the access licence plus the full extraction authorised by existing access licences nominating

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water supply works (bores) located in the area and the exercise of basic landholder rights, are likely to cause an adverse local impact, as outlined in Part 10 Division 3 of this Plan.

- (5) An access licences may be granted in this groundwater source where:
 - (a) a *Water Act 1912* licence was not converted at the commencement of this Plan, or
 - (b) a licence is found to be taking water from a water source in this Plan but has been incorrectly identified as taking of water from another groundwater source and the licence is cancelled in the other water source.
- (6) Aquifer access licences granted under subclause (5) shall be subject to the rules specified in clauses 25C and 25D.

[11] Clause 27 Extraction limit

Omit the clause. Insert instead:

27 Extraction limit

- (1) This Division is made in accordance with section 20 (2) (a) of the Act.
- (2) The extraction limit for this groundwater source is initially 108,000 ML/yr, plus total water allocations made to supplementary water access licences under clause 29, plus the total requirements for basic landholder rights at the commencement of this Plan.

[12] Clause 28 Variation of the extraction limit

Omit the clause. Insert instead:

28 Variation of extraction limits

- (1) The Minister may under section 45 (1) (b) of the Act amend clause 27 after 30 June 2010 of this Plan to vary the extraction limit in accordance with:
 - (a) any change to the average annual recharge arising from clause 16 (2), and
 - (b) any change to the planned environmental water arising from clause 18 (2).

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- (2) If there is any change to the extraction limit arising from subclause (1) then:
- (a) the extraction limit will not be greater than 215,393 ML/yr, plus the total requirements for basic landholder rights at the commencement of this Plan and,
 - (b) the extraction limit will not be less than 73,500 ML/yr, plus total water allocations made to supplementary water access licences under clause 29, plus the total requirements for landholder basic landholder rights.

[13] Insert the following clause after clause 28:

28A Compliance with the extraction limit

- (1) Water extraction in this groundwater source will be monitored each water year to determine if there is any growth in volume extracted above the extraction limit specified in clause 27, based on a comparison of the extraction limit against the extraction within this groundwater source over that year and the preceding 2 years.
- (2) For the purposes of auditing compliance with the extraction limit, if water that:
 - (a) pursuant to an access licence is committed as adaptive environmental water to be left in the aquifer for environmental purposes, then extraction will be assumed to be equal to the available water determination made under clause 29, or
 - (b) pursuant to an access licence is committed as adaptive environmental water to be extracted for environmental purposes, then extraction will be that measured through the approved water supply work (bore).
- (3) If the 3 year average of extraction in this groundwater source exceeds the extraction limit established in clause 27 (2) by 5% or greater, then the available water determination made for aquifer access licences under clause 29 (6) for the following water year, should be reduced by an amount that is assessed as necessary by the Minister to return subsequent total water extraction to the extraction limit.

[14] Clause 29 Available water determinations

Omit the clause. Insert instead:

29 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) Pursuant to section 58 (4) of the Act, this Plan amends the relative priorities of the categories of aquifer access licence and supplementary water access licence to the extent necessary to legally make the available water determinations as set out in this clause.
- (3) All available water determinations in this groundwater source shall be expressed as either:
 - (a) a percentage of the share component for all access licences where share components are specified as megalitres per year, or
 - (b) megalitres per unit of share component for all access licences where share components are specified as a number of shares.
- (4) An available water determination for each category of access licence in this groundwater source should be made at the commencement of each water year.
- (5) The available water determinations made at the commencement of each water year for domestic and stock and local water utility access licences should be 100% of share components.
- (6) The available water determination made at the commencement of each water year for water access licences should be such that the total of available water determinations under this clause equals the extraction limit set in clause 27 (2) as varied by clause 28 minus the total available water determinations for domestic and stock access licence minus total available water determinations for local water utility access licences minus total available water determinations for supplementary water access licences minus the requirements for basic landholder rights at the commencement of this Plan, or such lower amount as results from the operation of clause 28A (3).
- (7) The available water determination made at the commencement of this Plan for supplementary water access licences should be 1 ML per unit of share component.

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- (8) The available water determination made at the commencement of each year after the 2007/08 water year for supplementary water access licences will be reduced by 0.1 ML per unit of share component each year, and
- (9) The available water determination for supplementary water access licences will be reduced to 0 ML per unit of share component at the commencement of the 2017/18 water year.

Note. Subclause (8) means that allocations for supplementary water access licences will diminish each year by 0.1 ML per unit share each year from 2008/09. Thus, the available water determination for 1 February 2008 to 30 June 2008 is 1 ML, 2008/09 water year is 0.9 ML, 2009/10 water year is 0.8 ML, 2010/11 water year is 0.7 ML, 2011/12 water year is 0.6 ML, 2012/13 water year is 0.5 ML, 2013/14 water year is 0.4 ML, 2014/15 water year is 0.3 ML, 2015/16 water year is 0.2 ML, 2016/17 water year is 0.1 ML and 2017/18 water year is 0 ML.

[15] Note following clause 32

Omit the note. Insert instead:

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

[16] Clause 34 Annual accounting for water extraction

Omit the clause. Insert instead:

34 Annual accounting for water extraction

- (1) Water taken from this groundwater source will be accounted for at least annually.
- (2) Water taken by a water supply work (bore) nominated by an access licence will be periodically debited against the access licence water allocation account.
- (3) A water allocation account shall remain at or above zero at all times.
- (4) Unused water allocations in the water allocation account of a domestic and stock access licence or of local water utility access licence, cannot be carried over from one water year to the next.
- (5) In any water year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from this groundwater source under a local water utility access licence or a domestic and stock access licence, and total water in any water allocation account at any time associated with such an access licence, may not exceed a volume equal to:
 - (a) 100% of the share component of the access licence,

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- (b) plus any water allocations assigned from another access licence water allocation account under section 71T of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence water allocation account under section 71T of the Act in that year.
- (6) Unused water allocations in an access licence water allocation accounts may be carried over from one water year to the next.
- (7) In any water year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from this groundwater source under an aquifer access licence may not exceed a volume that is equal to:
- (a) 1.5 ML per unit of access licence share component,
 - (b) plus any water allocations assigned from another access licence water allocation account under section 71T of the Act in that year, and
 - (c) minus any water allocations assigned to another access licence water allocation account under section 71T of the Act in that year.
- (8) Total water in any aquifer access licence water allocation account at any time may not exceed a volume consisting of:
- (a) 2 ML per unit of aquifer access licence share component,
 - (b) plus any water allocations assigned from another access licence water allocation account under section 71T of the Act in that year,
 - (c) minus any water allocations assigned to another access licence water allocation account under section 71T of the Act in that year.
- (9) Unused water allocations in a supplementary water access licences water allocation account cannot be carried over from one water year to the next.
- (10) In any water year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from this groundwater source under a supplementary water access licence, may not exceed the allocation resulting from the available water determination.

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- (11) Where both an aquifer access licence and a supplementary water access licence nominate the same water supply works and use approvals, water taken will be debited from a supplementary water access licence water allocation account before water is debited from an aquifer access licence water allocation account.

[17] Subclause 39 (5)

Omit the subclause. Insert instead:

- (5) High priority groundwater dependent ecosystems are listed in Schedule 5.

[18] Subclause 39 (6)

Omit the subclause. Insert instead:

- (6) The Minister may under section 45 (1) (b) of the Act, identify high priority groundwater dependent ecosystems and include them in Schedule 5 at 30 June 2010, based on further studies of groundwater ecosystem dependency and Aboriginal cultural heritage undertaken by the Minister.

[19] Clause 44 Access licence dealing rules

Omit the clause. Insert instead:

44 Access licence dealing rules

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

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

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

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[20] Subclause 45 (1)

Omit the subclause. Insert instead:

- (1) This clause applies to any relevant dealings under sections 71Q, 71S, and 71W of the Act, and section 71T of the Act with respect to allocation assignments within this groundwater source.

[21] Clause 46 Rules for change of water source

Omit the clause. Insert instead:

46 Rules for change of water source

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

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

- (2) Dealings under section 71R of the Act that change the water source to which an access licence applies are prohibited in this groundwater source.

[22] Subclause 47 (1)

Omit the subclause. Insert instead:

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

[23] Subclause 48 (1)

Omit the subclause. Insert instead:

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

[24] Subclause 49 (1)

Omit the subclause. Insert instead:

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

[25] Subclause 50 (1)

Omit the subclause. Insert instead:

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

[26] Subclause 52 (2)

Omit the subclause. Insert instead:

- (2) All supplementary water access licences shall have mandatory conditions to give effect to clause 25E (2) and (3), in relation to the amendment of access licence share components and the cancellation of supplementary water access licences.

[27] Subclause 53 (a)

Omit the subclause. Insert instead:

- (a) the water supply work (bore) must be constructed by a driller licensed under the *Water Act 1912*,

[28] Subclause 53 (f)

Omit the subclause. Insert instead:

- (f) the water supply work (bore) approval holder is, within 2 months of completion of the work, or after the issue of the approval if the water supply work (bore) is existing, to provide to the Minister with:
- (i) details of the work on a form approved by the Minister,
 - (ii) a plan showing accurately the location of the work in relation to portion and property boundaries, and
 - (iii) details of any water analysis and/or pumping tests required by the Minister,

[29] Subclause 53 (g)

Omit the subclause. Insert instead:

- (g) if during the construction of the water supply work (bore), saline or contaminated water is encountered above the producing aquifer, such water is to be sealed off by:
- (i) inserting casing to a depth sufficient to exclude the saline or contaminated water from the work, and
 - (ii) placing an impermeable seal between the casing(s) and the walls of the bore hole from the bottom of the casing to ground level, as specified by the Minister,

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[30] Subclause 53 (h)

Omit the subclause. Insert instead:

- (h) if a water supply work (bore) is abandoned, the water supply work (bore) approval holder is to:
 - (i) notify the Minister in writing within 90 days that the work is no longer used, and
 - (ii) seal off the aquifer by backfilling the work to ground level after withdrawing the casing (lining), as specified by the Minister,

[31] Subclause 53 (i)

Omit the subclause. Insert instead:

- (i) an extraction measurement device must be installed and maintained on each water supply work (bore) used for extraction of water under an access licence, and such devices must be of a type, and must be maintained in a manner, which is acceptable to the Minister,

[32] Subclause 53 (m)

Omit the subclause. Insert instead:

- (m) a water supply work (bore) approval holder must supply to the Minister on request of the Minister, and to the required standards, a report pertaining to the quality of the water obtained from the water supply work (bore), and

[33] Clause 54 Monitoring

Omit the clause. Insert instead:

54 Monitoring

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

Note. Review and Audit of this Plan

In accordance with section 43A of the Act, the Natural Resources Commission must undertake a review of this Plan prior to any decision to extend its term or to make a new plan. The review must consider the extent to which the Plan's water sharing provisions have contributed to achieving or not achieving the relevant natural resource management standards and targets in the catchment management area (as referred to in section 5 of the *Catchment Management Authorities Act 2003*).

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

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

Note. The implementation program

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

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

The results of the review of the implementation program will be included in the annual report for the Department.

[34] Clause 55 Amendment of this Plan

Omit the clause. Insert instead:

55 Amendment of this Plan

- (1) This Part is made in accordance with section 45 (1) (b) of the Act.
- (2) This Plan can be amended in accordance with the following clauses of this Plan:
 - (a) clause 16 in respect to the average annual recharge,
 - (b) clause 18 in respect to planned environmental water,
 - (c) clause 28 in respect to the extraction limit,
 - (d) clause 39 in respect to high priority groundwater dependent ecosystems.

[35] Schedule 1 Dictionary

Include the following:

area developed is the area of land developed for irrigation through the construction and or installation of pumps, pipelines, channels, centre pivots, lateral moves, travelling irrigators, drip irrigation systems, sprays or other means of applying water for the purpose of irrigation. It does not include the maintenance, replacement or enhancement of existing works or infrastructure.

long term average storage component is the volume of water in the aquifer less the average annual recharge, and exceeds the combined requirements for basic landholder rights extraction and supplementary access provided for in this Plan.

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

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Water Act entitlement is the total of the *Water Act 1912* entitlements for all bore licences managed under a single property entitlement.

[36] Schedule 3 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Omit the schedule. Insert instead:

Schedule 3 Contribution to relevant targets in the State Water Management Outcomes Plan**Levels of assessed contribution:**

FULL—contributes to target in full

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

PARTIAL—goes some way to contributing to the target

LOW—only small degree of contribution to the target

Relevant Target	Level of Contribution	Comments
Target 1e The long term average annual extractions for groundwater limited (or being phased down) to an ecologically sustainable level (the Sustainable Yield) as determined by detailed assessment of each groundwater source and consultation with the relevant management committee. In the absence of such an assessment, the following to apply: 100 percent of average annual recharge for a groundwater source where there is no significant ecosystem dependency; 70 percent of average annual recharge where there is significant ecosystem dependency	PARTIAL	<ul style="list-style-type: none">This Plan establishes an extraction limit of 100% of recharge.No detailed assessment of groundwater dependent ecosystems has been undertaken.An expert panel identified wetlands and floodplain vegetation along the Lachlan river and prior streams as likely to be groundwater dependent. The groundwater source also discharges to the Lachlan river.This Plan provides for the extraction limit to be reviewed by June 30 2010.

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Relevant Target	Level of Contribution	Comments
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none">• Rules set out in Part 9.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	PARTIAL	<ul style="list-style-type: none">• Detailed assessment of groundwater dependent ecosystems was not undertaken, nevertheless an expert panel identified wetlands and floodplain vegetation along the Lachlan river and prior streams as likely to be groundwater dependent ecosystems. The groundwater source also discharges to the Lachlan River.• This Plan excludes licensed extraction from within 200 metres of wetlands and 40 metres of any creek or river.• This Plan prohibits new or replacement extraction bores within 200 metres of any high priority dependent groundwater ecosystems and 100 metres for basic landholder rights bores.• This Plan establishes extraction rules/ specified drawdown limits to manage groundwater level declines, groundwater quality impacts, and to protect aquifer integrity.

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Relevant Target	Level of Contribution	Comments
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	PARTIAL	<ul style="list-style-type: none"> • This Plan provides for review (including more detailed investigation of groundwater dependency) and variation in planned environmental water and extraction limit after 30 June 2010.
Target 6a For groundwater sources, the total volume of water specified on access licences reduced over the term of a water sharing plan to no more than 125 percent of the Sustainable Yield	FULL	<ul style="list-style-type: none"> • This Plan establishes transparent extraction limits and allocation/account rules. • This Plan embargos new licence applications. • The necessary reduction in licence volumes will not be completed until 30 June 2016 and will therefore leave the water rights and market uncertain in the meantime. • The local extraction rules means that future rights will not be exclusive but affected by the future location of works. Access licences with existing bores will have priority over licences requiring new bores. <ul style="list-style-type: none"> • The total access licence volume for this groundwater source is greater than 125% of the extraction limit. • This Plan provides for a reduction in access licence share components to 100% at the start of the Plan. • This Plan provides for supplementary water access licences with share components of an additional 38% of the extraction limit to be reduced to zero prior to the end of the Plan.

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Relevant Target	Level of Contribution	Comments
Target 10 Degree of connectivity between aquifers and rivers assessed, and zones of high connectivity mapped to enable baseflows to the river to be maintained or improved	PARTIAL	<ul style="list-style-type: none">While detailed assessment of connectivity was not undertaken, an expert panel concluded that this groundwater source would lose or gain from the river depending on season.The relatively high extraction limit may result in significant impacts on discharges to the river and creeks.This Plan excludes licensed extraction from within 40 metres of any creek or river.
Target 11 Groundwater dependent ecosystems identified and mapped for all priority aquifers, and the ecological water requirements assessed to enable local groundwater extraction rates and/or Sustainable Yields to be reviewed	PARTIAL	<ul style="list-style-type: none">Detailed assessment of groundwater dependent ecosystems was not undertaken, nevertheless an expert panel identified wetlands and floodplain vegetation along the Lachlan River and prior streams as likely to be groundwater dependent, particularly those in the shallow saturated zone between Hillston and Lake Brewster.This Plan excludes licensed extraction from within 200 metres of wetlands and prohibits new or replacement bores which are 200 metres (100 metres for basic landholder rights bores) from any high priority dependent groundwater ecosystems.This Plan provides for review (including more detailed assessment of groundwater dependency) and variation in planned environmental water and extraction limit after 30 June 2010.

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Relevant Target	Level of Contribution	Comments
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none">• This Plan has identified the volumes necessary to meet basic domestic and stock requirements.• It also protects domestic and stock bores from interference from higher yielding bores.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	<ul style="list-style-type: none">• One aboriginal community representative has been involved in development of this Plan.• A Department Officer consulted with local Aboriginal Communities.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	PARTIAL	<ul style="list-style-type: none">• No Aboriginal cultural or traditional sites or requirements have been identified.• This Plan has a specific objective to protect heritage sites and cultural values.• This Plan excludes licensed extraction from within 200 metres of wetlands and prohibits new or replacement bores which are 200 metres (100 metres for basic landholder rights bores) from any high priority dependent groundwater ecosystems.• This Plan prohibits extraction from new or replacement bores which are 200 metres (100 metres for basic landholder rights bores) from any designated Aboriginal heritage sites.• This Plan provides for an assessment of the environmental and Aboriginal heritage requirements by 2010.

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Relevant Target	Level of Contribution	Comments
Target 16a All share components of access licences tradeable	PARTIAL	<ul style="list-style-type: none">This Plan provides for assessment of new licence applications by Aboriginal interests.Aquifer access licence share components and water allocations are tradeable.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none">This Plan allows trading, but restricts it in areas where there may be impacts on the environment or other users.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	FULL	<ul style="list-style-type: none">This Plan does include a general water quality objective and the beneficial use categories and references the ANZECC guidelines.This Plan does establish specific rules to protect water quality.
Target 38 Aquifer water quality vulnerability zones mapped and extraction limits reviewed to reduce the risk of lateral intrusion of poor quality water	PARTIAL	<ul style="list-style-type: none">No vulnerability mapping of area is referenced in this Plan.Rules are established in this Plan to limit the movement of poor quality water.

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[37] Schedule 4 Licences Exempt from Access licence share component adjustment

Omit the schedule. Insert instead:

Schedule 4 Aquifer access licence share component

(Clauses 25C (1) and 25C (2))

Column 1	Column 2	Column 3
Water Act Property Entitlement	Licence	Aquifer Access Licence Share Component
70PT960437	70BL153508	24
70PT960416	70BL226849	395
70PT960417	70BL226850	353
70PT960418	70BL226851	808

[38] Schedule 5 High priority groundwater dependent ecosystems and identified Aboriginal cultural heritage values

Omit the schedule. Insert instead:

Schedule 5 High priority groundwater dependent ecosystems

Note. There are no high priority groundwater dependent ecosystems identified and scheduled at the commencement of this Plan.

Note. High priority groundwater dependant ecosystems may be added to this Schedule during the period of this Plan. The Department Offices shown in Appendix 2 should be contacted for a current list.

[39] Appendix 2 Location of maps

Omit the appendix. Insert instead:

Appendix 2 Location of maps

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

Department of Water and Energy
9 Spring Street
FORBES NSW 2871

Department of Water and Energy
7 Hay Street
CONDOBOLIN NSW 2877

Department of Water and Energy
Cnr Anson & Kite Streets
ORANGE NSW 2800

[40] Appendix 4 Minister's access licence dealing principles

Omit the appendix. Insert instead:

Appendix 4 Rules for determining History of Extraction

(Clause 25C (4))

- Rule 1** The history of extraction (HOE) for each entitlement, being the total entitlement of all bores managed under a property entitlement, is calculated separately, irrespective of ownership.
- Rule 2** When meter failure has prevented the measurement of actual extraction, extraction will be estimated on the basis of:
- the extraction that was estimated at the time of meter failure held on record by the Department, or
 - pump running times held on record by the Department, or
 - areas of crops grown and water usage for similar crops.
- Rule 3** Estimates made under Rule 2 will be capped at licensed access to water for the entitlement for the year in question.
- Rule 4** Where non-volumetric entitlements have been converted to volumetric entitlements during or after the period being used to calculate the HOE, any relevant historical extraction or other data used in converting the entitlements will be used to calculate the HOE.
- Rule 5** In the event of zero or reduced extraction resulting from bore failure, the year in which the bore failed will be excluded in calculating the HOE.
- If a licence holder substantiates a case that the failure of a bore had a greater impact on extraction in the water year following bore failure, then this year rather than the year in which the failure occurred, will be the year excluded.

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The licence holder must provide documented evidence of the bore failure.

- Rule 6** Failure of associated bore equipment (eg motor, gearbox etc) will not be considered bore failure for the purpose of calculating the HOE.
- Rule 7** Reduced levels of extraction from a bore due to lower aquifer levels will not be considered bore failure for the purpose of determining the HOE.
- Rule 8** In the event of lower extraction resulting from crop failure, no allowance will be made in calculating the HOE.
- Rule 9** Water extracted pursuant to a temporary transfer of entitlement will be accounted in the HOE of the seller or transferor.
- Rule 10** Where properties have been amalgamated, all extraction prior to amalgamation will be combined and together with extraction occurring after amalgamation will be used to calculate the HOE.
- Rule 11** When new entitlements have been created due to subdivision, extractions under the original entitlement will be apportioned to each new entitlement in proportion to the entitlement at the commencement of the Plan and together with extraction occurring after subdivision will be used to calculate the HOE.
Alternately, where all the new entitlement holders unanimously agreed, extraction under the original entitlement will be calculated for each bore licence and together with extraction occurring after the subdivision will be used to calculate the HOE.
- Rule 12** Where extractions have not been metered extraction will be assessed on the basis of (in priority order):
(a) any relevant historical extraction data used in converting non-volumetric entitlement to volumetric entitlement,
(b) recorded pump usage hours if available, and
(c) areas of crops grown and water usage for similar crops each year.
- Rule 13** Where an entitlement holder is unable to or does not provide information on which to base an assessment for a year the extraction for that year will be assessed as zero megalitres.

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Rule 14 All extractions that a licence holder ‘carried over’ and/or ‘borrowed’ that were in accordance with management rules applying at the time will be included as extraction for determining the HOE.

Rule 15 Metered extraction will first be allocated to:

- (a) groundwater only extraction capped at the allocation for that year, then;
- (b) conjunctive groundwater allocation (where applicable) capped at the conjunctive groundwater entitlement for that year, then;
- (c) carry over within management rule limits and then;
- (d) borrowing within management rule limits.

The sum of extraction from groundwater only entitlement, conjunctive groundwater entitlement, carryover & borrowing provision and temporary transfers will be used to calculate the HOE. Any remaining extraction will not be used to calculate the HOE.

Rule 16 Extraction for the purpose of determining the HOE may be:

- (a) the extraction capacity of a bore or bores constructed after the 1 July 2003 if a licensee demonstrates he constructed a bore after this date, or
- (b) the average irrigation requirement for land developed for irrigation after 1 July 2003 if a licensee demonstrates developed land for irrigation after this date.

For the purposes of this rule:

- (a) extraction capacity of a bore is calculated by multiplying the safe extraction rate in ML/day, or where this is not available the measured production rate from a bore in ML/day by 150 days per year.
- (b) the average irrigation requirement is the area developed in hectares multiplied by 6.5 ML/ha
- (c) area developed is the area of land developed for irrigation through the construction and or installation of pumps, pipelines, channels, centre pivots, lateral moves, travelling irrigators, drip irrigation systems, sprays or other means of applying water for the purpose of irrigation. It does not include the maintenance, replacement or enhancement of existing works or infrastructure.

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- (d) Where the licensee has a surface water entitlement, the area developed for groundwater irrigation is calculated from the formulae:

$$\frac{\text{Area Developed (ha)} \times \text{Water Act 1912 groundwater entitlement}}{\text{Water Act 1912 groundwater entitlement} + \text{Water Act 1912 surface water entitlement} \times 0.61}$$

BY AUTHORITY