



New South Wales

## **Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011**

under the

Water Management Act 2000

I, the Minister for Primary Industries, in pursuance of section 50 of the *Water Management Act 2000*, do, by this Order, make the following Minister's Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources.

Dated this 30th day of November, 2011.

**KATRINA HODGKINSON, MP**  
**Minister for Primary Industries**

### **Explanatory note**

This Order is made under section 50 of the *Water Management Act 2000*. The object of this Order is to make the *Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*. The concurrence of the Minister for the Environment was obtained prior to the making of this Order.

## Contents

Part 1	Introduction .....	1
Part 2	Vision, objectives, strategies and performance indicators .....	4
Part 3	Bulk access regime.....	7
Part 4	Planned environmental water provisions .....	9
Part 5	Requirements for water .....	12
	<b>Division 1</b> <b>General</b> .....	12
	<b>Division 2</b> <b>Requirements for water for basic landholder rights</b> .....	12
	<b>Division 3</b> <b>Requirements for water for extraction under access licences</b> .....	13
Part 6	Limits to the availability of water .....	15
	<b>Division 1</b> <b>Long-term average annual extraction limits</b> .....	15
	<b>Division 2</b> <b>Available water determinations</b> .....	19
Part 7	Rules for granting access licences.....	22
Part 8	Rules for managing access licences .....	23
	<b>Division 1</b> <b>Water allocation account management rules</b> .....	23
	<b>Division 2</b> <b>Daily access rules</b> .....	26
Part 9	Rules for water supply work approvals.....	32
	<b>Division 1</b> <b>Rules applying to water supply works that take surface water</b> ....	32
	<b>Division 2</b> <b>Rules applying to water supply works that take water from the Lower Darling Alluvial Groundwater Source</b> .....	33
Part 10	Access licence dealing rules.....	42
Part 11	Mandatory conditions.....	46
	<b>Division 1</b> <b>Access licences</b> .....	46
	<b>Division 2</b> <b>Access licences</b> .....	46
	<b>Division 3</b> <b>Water supply work approvals</b> .....	49
Part 12	Amendment of this Plan.....	55
	<b>Schedule 1</b> <b>Dictionary</b> .....	62

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<b>Schedule 2</b>	<b>Water sources to which this Plan does not apply.....</b>	<b>64</b>
<b>Schedule 3</b>	<b>Identified Lagoons .....</b>	<b>65</b>
<b>Schedule 4</b>	<b>Access licences used to take from the Lower Murray-Darling Unregulated Water Source exempt from cease to pump rules .....</b>	<b>66</b>
<b>Schedule 5</b>	<b>Access licences used to take water from the Lower Darling Alluvial Groundwater Source exempt from cease to pump rules</b>	<b>67</b>
<b>Schedule 6</b>	<b>Contamination sources in these water sources .....</b>	<b>68</b>
<b>Schedule 7</b>	<b>High priority groundwater dependent ecosystems.....</b>	<b>69</b>
<b>Appendix 1</b>	<b>Overview of the Registered Map.....</b>	<b>70</b>
<b>Appendix 2</b>	<b>Offices .....</b>	<b>71</b>

# Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011

## 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 Lower Murray-Darling Unregulated and Alluvial 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.

### 4 Application of this Plan

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

- (a) Lower Murray-Darling Unregulated Water Source, and
- (b) Lower Darling Alluvial Groundwater Source.

**Note.** The Lower Murray-Darling 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 registered map called The Lower Murray-Darling Water Unregulated and Alluvial Water Sources held by the Department, hereafter the *Registered Map*.

**Note.** An overview of the Registered Map is shown in Appendix 1. Copies of the Registered Map may be inspected at the offices listed in Appendix 2.

- (3) Subject to subclause (5), the Lower Murray-Darling Unregulated Water Source includes all water:
  - (a) occurring naturally on the surface of the ground shown on the Registered Map, and
  - (b) in rivers, lakes, estuaries and wetlands in these water sources.
- (4) Subject to subclause (5), the Lower Darling Alluvial Groundwater Source includes all water contained within all alluvial sediments below the surface of the ground within the groundwater source boundaries shown on the Registered Map.
- (5) These water sources do not include water:
  - (a) contained in any fractured rocks or porous rocks,
  - (b) contained between the banks of rivers declared to be regulated within the New South Wales Murray and Lower Darling Regulated Rivers Water Sources as defined in the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2003*,
  - (c) contained in the sections specified in Column 2 of Schedule 2 of the respective water sources specified in Column 1 of Schedule 2, and

**Note.** The sections of the water sources specified in Schedule 2 are proposed to be included in the water sharing plan being developed for the Barwon-Darling unregulated and alluvial water sources.

- (d) taken under a floodplain harvesting access licence with a share component that does not specify one of these water sources.

## 5 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.

## 6 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 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.
- (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

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

### 7 Vision statement

The vision for this Plan is to provide for healthy and enhanced water sources and water dependent ecosystems and for equitable water sharing among users in these water sources.

### 8 Objectives

The objectives of this Plan are to:

- (a) protect, preserve, maintain and enhance the important river flow dependent and high priority groundwater dependent ecosystems of these water sources,
  - (b) protect, preserve, maintain and enhance the Aboriginal, cultural and heritage values of these water sources,
  - (c) protect basic landholder rights,
  - (d) manage these water sources to ensure equitable sharing between users,
  - (e) provide opportunities for enhanced market based trading of access licences and water allocations within environmental and system constraints,
  - (f) provide water allocation account management rules which allow sufficient flexibility in water use,
  - (g) contribute to the maintenance of water quality,
  - (h) provide recognition of the connectivity between surface water and groundwater,
  - (i) adaptively manage these water sources, and
  - (j) contribute to the environmental and other public benefit outcomes identified under the Water Access Entitlements and Planning Framework in the *Intergovernmental Agreement on a National Water Initiative (2004)* (hereafter *the NWI*).
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**Note.** Under the NWI, water that is provided by NSW to meet agreed environmental and other public benefit outcomes as defined within relevant water plans is to:

- (i) be given statutory recognition and have at least the same degree of security as water access entitlements for consumptive use and be fully accounted for,
- (ii) be defined as the water management arrangements required to meet the outcomes sought, including water provided on a rules basis or held as a water access entitlement, and
- (iii) if held as a water access entitlement, may be made available to be traded (where physically possible) on the temporary market, when not required to meet the environmental and other public benefit outcomes sought and provided such trading is not in conflict with these outcomes.

## 9 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules,
- (b) identify water requirements for basic landholder rights,
- (c) identify water requirements for access licences,
- (d) establish rules for the granting of access licences and approvals,
- (e) establish rules that place limits on the availability of water for extraction,
- (f) establish rules for making available water determinations,
- (g) establish rules for the operation of water accounts,
- (h) establish rules which specify the circumstances under which water may be extracted,
- (i) establish access licence dealing rules,
- (j) establish performance indicators, and
- (k) identify triggers for and limits to changes to the rules in this Plan.

## 10 Performance indicators

The following indicators are to be used to measure the success of the strategies to reach the objectives of this Plan:

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Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011

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- (a) change in low flow regime,
- (b) change in moderate to high flow regime,
- (c) change in surface water and groundwater extraction relative to the long-term average annual extraction limit,
- (d) change in local water utility access,
- (e) change in, or maintenance of, the ecological value of key water sources and their dependent ecosystems,
- (f) the extent to which basic landholder rights requirements have been met,
- (g) the extent to which local water utility requirements have been met,
- (h) the extent to which native title rights requirements have been met,
- (i) the change in economic benefits derived from water extraction and use, and
- (j) the extent of recognition of spiritual, social and customary values of water to Aboriginal people.

## **Part 3 Bulk access regime**

### **11 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 established in this Plan 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 Division 1 of 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 to be made contained in Division 2 of Part 6 of this Plan,
    - (c) recognises the effect of climatic variability on the availability of water as described in clause 12,
    - (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, contained in Division 1 of 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
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- (f) recognises and is consistent with the water management principles contained in section 5 of the Act.

## 12 Climatic variability

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

- (a) manage the sharing of water in these water sources 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 reduction in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit, contained in Division 1 of Part 6 of this Plan, and
- (b) manage the sharing of water in specified water sources on a daily basis in these water sources, contained in Division 2 of Part 8 of this Plan.

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

## **Part 4 Planned environmental water provisions**

### **Notes.**

- 1 This Part is made in accordance with sections 8, 8A, and 20 of the Act.
- 2 Part 12 allows for amendments to be made to Part 4.

### **13 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.

### **14 Commitment and identification of planned environmental water**

- (1) Planned environmental water is committed and identified in these water sources as set out in this clause.
- (2) 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.

### **15 Establishment and maintenance of planned environmental water**

- (1) Planned environmental water is established and maintained in these water sources as set out in this clause.
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- (2) Planned environmental water in these water sources is established as follows:
- (a) it is the physical presence of water:
- (i) in the Lower Murray-Darling Unregulated Water Source that results 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 for the Lower Murray-Darling Unregulated Water Source set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.
- (ii) in the Lower Darling Alluvial Groundwater Source that is equal to 80% of the long term average annual rainfall recharge to the Lower Darling Alluvial Groundwater Source minus the share components of all salinity and water table management access licences in the Lower Darling Alluvial Groundwater Source granted under clause 35 of this Plan, and
- Note.** At the commencement of this Plan the long term average annual rainfall recharge for the Lower Darling Alluvial Groundwater Source is estimated to be 10,963 ML/yr.
- (iii) in the Lower Darling Alluvial Groundwater Source that is within the groundwater storage of the Lower Darling Alluvial Groundwater Source over the long term.
- (b) it is the long-term average annual commitment of water as planned environmental water in:
- (i) the Lower Murray-Darling Unregulated Water Source that results from the application of the available water determination rules as specified in Division 2 of Part 6 of this Plan, the water allocation account management rules as specified in Division 1 of Part 8 of this Plan, and the resulting long-term average annual extraction limit as specified in Division 1 of Part 6 of this Plan, and
- (ii) the Lower Darling Alluvial Groundwater Source that is equal to 80% of the long-term average rainfall annual recharge minus the share components of all salinity and water table management access licences in the Lower Darling Alluvial Groundwater Source granted under clause 35 of this Plan, and
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- (c) the water remaining in these water sources after water has been taken pursuant to basic landholder rights and access licences, in accordance with the rules specified in Parts 6 and 8 of this Plan.
- (3) The planned environmental water established under subclause (2) (a) is maintained in:
  - (a) the Lower Murray-Darling Unregulated Water Source by the rules specified in Part 6 and Division 2 of Part 8 of this Plan, and
  - (b) the Lower Darling Alluvial Groundwater Source by the rules specified in Part 6 and Division 1 of Part 8 of this Plan.
- (4) The planned environmental water established under subclause (2) (b) is maintained in:
  - (a) the Lower Murray-Darling Unregulated Water Source by the available water determination rules as specified in Division 2 of Part 6 of this Plan, the water allocation account management rules as specified in Division 1 of Part 8 of this Plan and the resulting long-term average annual extraction limit as specified in Division 1 of Part 6 of this Plan, and
  - (b) the Lower Darling Alluvial Groundwater Source by the rules in Part 6 of this Plan which limit the water available for extraction under access licences.
- (5) The planned environmental water established under subclause (2) (c) is maintained in these water sources by the rules specified in Part 6 and Divisions 1 and 2 of Part 8 of this Plan.

**Note.** The rules 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 limit. The rules in Part 6 provide for a reduction in available water determinations when the long-term average annual extraction limits have been assessed to have been exceeded.

## Part 5 Requirements for water

### Division 1 General

#### 16 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 Division 1 of Part 6 of this Plan.

**Note.** The total share components of access licences in these water sources may change during the term 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

#### 17 Domestic and stock rights

At the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights in these water sources are estimated to total 7.6 megalitres per day (hereafter *ML/day*), distributed as follows:

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- (a) 5.6 ML/day in the Lower Murray-Darling Unregulated Water Source, and
- (b) 2.0 ML/day in the Lower Darling Alluvial Groundwater Source.

**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.

## 18 Native title rights

At the commencement of this Plan, there are no native title rights in these water sources. Therefore the water requirements for native title rights total 0 megalitres per year (hereafter *ML/year*).

**Note.** A change in native title rights may occur pursuant to the provisions of the *Native Title Act 1993* (Cth).

## 19 Harvestable rights

The requirement 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

### 20 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 take water from these water sources will total 71 ML/year, distributed as follows:

- (a) 29 ML/year in the in the Lower Murray-Darling Unregulated Water Source, and
- (b) 42 ML/year in the Lower Darling Alluvial Groundwater Source.

## 21 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 take water from these water sources will total 0 ML/year, distributed as follows:

- (a) 0 ML/year in the Lower Murray-Darling Unregulated Water Source, and
- (b) 0 ML/year in the Lower Darling Alluvial Groundwater Source.

**Note.** Clause 35 of this Plan provides for Essential Energy to apply for a local water utility access licence for the purpose of supplying water to Broken Hill and Silverton.

## 22 Share components of unregulated river access licences

It is estimated that at the time of commencement of this Plan the share components of unregulated river access licences authorised to take water from the Lower Murray-Darling Unregulated Water Source will total 2,424 unit shares.

## 23 Share components of aquifer access licences

It is estimated that at the time of commencement of this Plan the share components of aquifer access licences authorised to take water from the Lower Darling Alluvial Groundwater Source will total 748 unit shares.

## 24 Share components of salinity and water table management access licences

It is estimated that at the time of commencement of this Plan the share components of salinity and water table management access licences authorised to take water from these water sources will total 0 ML/year, distributed as follows:

- (a) 0 ML/year in the Lower Murray-Darling Unregulated Water Source, and
- (b) 0 ML/year in the Lower Darling Alluvial Groundwater Source.

**Note.** Clause 35 of this Plan provides that application for salinity and water table management access licences may be made in these water sources. It is anticipated that approximately 5000 ML/year will be issued in the Lower Murray-Darling Unregulated Water Source, and 700 ML/yr in the Lower Darling Alluvial Groundwater Source.

## **Part 6 Limits to the availability of water**

**Note.** Part 12 allows for amendments to be made to Part 6.

### **Division 1 Long-term average annual extraction limits**

#### **25 General**

The availability of water for extraction in these water sources on a long-term basis is to be managed in accordance with this Part.

#### **26 Volume of the long-term average annual extraction limits**

- (1) This clause establishes long-term average annual extraction limits for these water sources.
- (2) Subject to subclause (4), the long-term average annual extraction limit for the Lower Murray-Darling Unregulated Water Source is:
  - (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 under entitlements issued under Part 2 of the *Water Act 1912* from the Lower Murray-Darling Unregulated Water Source, plus
  - (b) the estimated annual water requirements pursuant to domestic and stock rights in the Lower Murray-Darling Unregulated Water Source at the commencement of this Plan, plus
  - (c) the estimated annual extraction of water by the Broken Hill Water Board averaged over the period from July 1993 to June 1999 in the Lower Murray-Darling Unregulated Water Source, plus
  - (d) the estimated annual extraction of water averaged over the period from July 1993 to July 1999 by floodplain harvesting activities for which floodplain harvesting access licences were later issued in the Lower Murray-Darling Unregulated Water Source.

**Notes.**

- 1 Under paragraphs (a), (b), and (c), any water extracted from the Lower Murray-Darling Unregulated Water Source by the Rufus River Salt Interception Scheme during the period

July 1993 to June 1999 is not included within the long-term average annual extraction limit.

- 2 In unregulated river water sources (including those in the Lower Murray-Darling Unregulated Water Source) the extraction of water by floodplain harvesting activities is typically already accounted for within the existing access licence share components. However, there may be instances where this is not the case and floodplain harvest access licences will be issued in accordance with the NSW Floodplain Harvesting Policy. Subclause (2) (d) applies only to those estimated extractions for which floodplain harvesting access licences are later issued, and not to estimated extractions under entitlements issued under Part 2 of the Water Act 1912.

- (3) Subject to subclause (4), the long-term average annual extraction limit for the Lower Darling Alluvial Groundwater Source is:

- (a) 1,529 ML/year, plus
- (b) the share components of any salinity and water table management access licences in the Lower Darling Alluvial Groundwater Source granted under clause 35 of this Plan.

**Note.** The long term average annual extraction limit for the Lower Darling Alluvial Groundwater Source consists of:

- (a) the sum of entitlements issued under Part 5 of the *Water Act 1912* in this water source, plus
- (b) an estimate of annual water requirements for domestic and stock rights and native title rights in this water source, plus
- (c) the sum of all salinity and water table management access licences in the Lower Darling Alluvial Groundwater Source granted under clause 35 of this Plan.

- (4) Following the surrender and cancellation of an access licence in these water sources under sections 77 and 77A of the Act, the Minister may vary the respective long-term average annual extraction limit.

**Notes.**

- 1 Under section 8F of the Act the long-term extraction limit is taken to be varied by the amount of any change to the amount of water committed as licensed environmental water. Water committed as licensed environmental water is not to be accounted for as extraction. The variation in the long-term extraction limit is to be determined in accordance with a methodology approved by the Minister and published in the Gazette.
- 2 Part 12 allows for amendments to be made to modify a long-term average extraction limit as a result of the granting of salinity and water table management access licences.

## 27 Calculation of current levels of annual extraction

- (1) After each water year, the total volume of water extracted during that water year under

access licences and pursuant to domestic and stock rights and native title rights must be calculated for each of these water sources.

- (2) For the purpose of calculating the total volume of water extracted during a water year, the following must be taken into account:
  - (a) all water taken by holders of all categories of access licence in the water source, excluding salinity and water table management access licences with a share component that specifies the Lower Murray-Darling Unregulated Water Source and
  - (b) all water taken pursuant to domestic and stock rights and native title rights in the water source.

**28 Assessment of average annual extraction against the long-term average annual extraction limit**

- (1) An assessment of average annual extractions against the long-term average annual extraction limit is to be conducted for the Lower Murray-Darling Unregulated Water Source and for the Lower Darling Alluvial Groundwater Source as set out in this clause.
- (2) Commencing in the sixth water year in which this Plan has effect, the assessments referred to in subclause (1) must compare the long-term average annual extraction limit established in clause 26 for the respective water source against the annual extraction averaged over the preceding five water years for that water source.

**29 Compliance with the long-term average annual extraction limit for the Lower Murray-Darling Unregulated Water Source**

- (1) Compliance with the long-term average annual extraction limits established for the Lower Murray-Darling Unregulated Water Source is to be managed in accordance with this clause.
- (2) Commencing in the sixth water year in which this Plan has effect, if, in the Minister's opinion, the assessment under clause 28 demonstrates that annual extractions in the Lower Murray-Darling Unregulated Water Source averaged over the preceding five water years have exceeded the long-term average annual extraction limit for that water

source by 5% or more, then the available water determination for unregulated river access licences in that water source is to be reduced in the following water year in accordance with subclause (3).

- (3) The reduction under subclause (2) is to be of an amount that is, in the Minister's opinion, necessary to return average annual extractions in the respective water source to the long-term average annual extraction limit established in this Part.

### **30 Compliance with the long-term average annual extraction limit for the Lower Darling Alluvial Groundwater Source**

- (1) Pursuant to sections 58 (3) and 58 (4) of the Act, this Plan amends the relative priorities of the categories of aquifer access licence and salinity and water table management access licence to the extent necessary to make the reductions to available water determinations as set out in this clause.

**Note.** Under section 58 (3) of the Act, a management plan may provide for different rules of priority to those established under section 58 (1) of the Act.

- (2) Compliance with the long-term average annual extraction limits established for the Lower Darling Alluvial Groundwater Source is to be managed in accordance with this clause.
  - (3) Commencing in the sixth water year in which this Plan has effect, if, in the Minister's opinion, the assessment under clause 28 demonstrates that annual extractions in the Lower Darling Alluvial Groundwater Source averaged over the preceding five water years have exceeded the long-term average annual extraction limit for that water source by 10% or more, then the available water determination for aquifer access licences in that water source is to be reduced in the following water year in accordance with subclause (4).
  - (4) The reduction under subclause (3) must be of an amount that is, in the Minister's opinion, necessary to return average annual extractions in the respective water source to the long-term average annual extraction limit established in this Part.
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## **Division 2 Available water determinations**

### **31 General**

- (1) Available water determinations for access licences with a share component that specifies one of these water sources are to be expressed as either:
  - (a) a percentage of share component for access licences where share components are specified as megalitres per year, or
  - (b) megalitres per unit share for access licences where share components are specified as a number of unit shares.
- (2) Subject to subclause (3), 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 or such lower amount that results from Division 1 of this Part, for all access licences where share components are specified as megalitres per year, or
  - (b) 1 ML per unit share of the access licence share component or such lower amount that results from Division 1 of this Part, for all access licences where share components are specified as a number of unit shares.
- (3) For the first water year in which this Plan has effect, subclause (2) does not apply to access licences with a share component that specifies the Lower Murray-Darling Unregulated Water Source.

### **32 Available water determinations made at the commencement of this Plan for the Lower Murray-Darling Unregulated Water Source**

- (1) In making available water determinations under section 59 of the Act at the commencement of this Plan for access licences with share components that specify the Lower Murray-Darling Unregulated Water Source, the Minister should consider the rules in this clause.
  - (2) At the commencement of this Plan, the following available water determinations should be made for access licences with a share component that specifies the Lower
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Murray-Darling Unregulated Water Source:

- (a) 200% of the access licence share component for domestic and stock access licences,
- (b) 200% of the access licence share component for local water utility access licences,
- (c) 100% of the access licence share component for salinity and water table management access licences, and
- (d) 2 ML per unit of share component for unregulated river access licences.

**33 Available water determinations after the first water year in which this Plan has effect for the Lower Murray-Darling Unregulated Water Source**

- (1) In making available water determinations under section 59 of the Act after the first water year in which this Plan has effect for access licences with share components that specify the Lower Murray-Darling Unregulated Water Source, the Minister should consider the rules in this clause.
- (2) At the commencement of each water year after the first water year in which this Plan has effect, the following available water determinations should be made for access licences with a share component that specifies the Lower Murray-Darling Unregulated Water Source:
  - (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) 100% of the access licence share component for salinity and water table management access licences, and
  - (d) 1 ML per unit of share component for unregulated river access licences,

or such lower amount that results from Division 1 of this Part.

**Note.** Division 1 of this Part provides for available water determinations for unregulated river

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access licences to be reduced where the long-term average annual extraction limit for the Lower Murray-Darling Unregulated Water Source has been assessed to have been exceeded, as per clauses 28 and 29.

**34 Available water determinations for the Lower Darling Alluvial Groundwater Source**

- (1) In making available water determinations under section 59 of the Act for access licences with share components that specify the Lower Darling Alluvial Groundwater Source, the Minister should consider the rules in this clause.
- (2) At the commencement of this Plan and at the commencement of each water year after the first water year in which this Plan has effect, the following available water determinations should be made for access licences with a share component that specifies the Lower Darling Alluvial Groundwater Source:
  - (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) 100% of the access licence share component for salinity and water table management access licences, and
  - (d) 1 ML per unit of share component for aquifer access licences,

or such lower amount that results from Division 1 of this Part.

**Note.** Division 1 of this Part provides for available water determinations for unregulated river access licences to be reduced where the long-term average annual extraction limit for the Lower Darling Alluvial Groundwater Source has been assessed to have been exceeded, as per clauses 28 and 30.

## **Part 7 Rules for granting access licences**

### **Notes.**

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

### **35 Specific purpose access licences**

- (1) Applications for specific purpose access licences other than those permitted under the Regulation must not be made in these water sources except for:
  - (a) a salinity and water table management access licence in the Lower Darling Alluvial Groundwater Source or the Lower Murray-Darling Unregulated Water Source, and
  - (b) a local water utility access licence for the purpose of supplying water to Broken Hill and Silverton.
- (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” must not be granted in these water sources unless the share component of the proposed access licence is less than or equal to 10 ML/year.

### **36 Granting of access licences as a result of controlled allocation**

The Minister may grant an access licence where the right to apply for the licence has been acquired accordance with an order made under section 65 of the Act.

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

### **Division 1 Water allocation account management rules**

#### **37 General**

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

**Note.** The Act provides for the keeping of water allocation accounts. The rules in this Part impose further restrictions on volume of water that may be taken under an access licence over a specified period of time. These restrictions are in addition to any other limits on access licences for the taking of water contained in this Plan. For further clarification, these rules do not authorise the taking of more water than is credited to the respective water allocation account for the access licence at the time water is taken. It is an offence under the Act to take water other than in accordance with the water allocation for an access licence.

#### **38 Individual access licence account management rules for access licences in the Lower Murray-Darling Unregulated Water Source**

- (1) The rules in this clause apply to the taking of water under an access licence with a share component that specifies the Lower Murray-Darling Unregulated Water Source.
  - (2) For the period of the first three water years in which this Plan has effect, the maximum volume of water that may be taken under an access licence to which this clause applies, excluding a salinity and water table management access licence, must not exceed a volume equal to:
    - (a) 50% of the water allocations accrued to the water allocation account for the access licence from available water determinations in the first water year, plus
    - (b) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in the second and third water years, plus
    - (c) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in those water years, plus
    - (d) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in those water years.
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- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, the maximum volume of water that may be taken under an access licence to which this clause applies, excluding a salinity and water table management access licence, must not exceed a volume equal to the lesser of:
- (a) the sum of:
    - (i) the 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 (5),
    - (iii) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in those three water years, and
    - (iv) 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, 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 section 71T 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
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water years.

- (4) In any water year, the maximum volume of water that may be taken under a salinity and water table management access licence to which this clause applies must not exceed a volume equal to:
  - (a) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in that water year, plus
  - (b) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in that water year, plus
  - (c) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
- (5) Subject to subclause (6), the maximum water allocation that can be carried over in the water allocation account for an access licence to which this clause applies, excluding a salinity and water table management access licence, 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.
- (6) Water allocations remaining in the water allocation account for a salinity and water table management access licence to which this clause applies cannot be carried over from one water year to the next.

**39 Individual access licence account management rules for access licences in the Lower Darling Alluvial Groundwater Source**

- (1) This clause applies to all access licences with share components that specify the Lower Darling Alluvial Groundwater Source.
  - (2) In any water year, the maximum volume of water that may be taken under an access licence to which this clause applies must not exceed a volume equal to:
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- (a) the sum of water allocations accrued to the water allocation account for the access licence from available water determinations in that water year, plus
  - (b) the net amount of any water allocations assigned to or from the water allocation account for the access licence under section 71T of the Act in that water year, plus
  - (c) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
- (3) Water allocations remaining in the water allocation account for an access licence to which this clause applies cannot be carried over from one water year to the next.

## **Division 2 Daily access rules**

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

### **40 General**

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

### **41 Access rules for the taking of surface water**

- (1) This clause applies to the taking of water under an access licence from the Lower Murray-Darling Unregulated Water Source except for:
- (a) the taking of water under an access licence that does not nominate a water supply work approval in the Lower Murray-Darling Unregulated Water Source, where the access licence is used to account for the taking of water in association with an activity authorised by an aquifer interference approval, and
  - (b) the taking of water under a salinity and water table management access licence.
- (2) Subject to subclause (9), water must not be taken under an access licence if there is no visible flow in the water source at the location at which water is proposed to be taken. This subclause does not apply to the taking of water from natural pools, lagoons or lakes.

- (3) 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. This subclause does not apply to the taking of water under a local water utility access licence.
  - (4) The inflows to be specified on the water supply work approval for the in-river dam referred to in subclause (3) 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.
  - (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 applicable cease to take condition specified in subclauses (2) or (6) to (8) when flows or storage/containment levels 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.
  - (6) Subject to subclause (9), water must not be taken from a lagoon specified in Schedule 3, when the water level in that lagoon is less than 50% of the full containment volume of the respective lagoon.
  - (7) Subject to subclause (9), water must not be taken from a natural pool, lagoon or lake, excluding a lagoon specified in Schedule 3 and Thegoa Lagoon, 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.
  - (8) Subject to subclause (9), water must not be taken from Thegoa Lagoon when:
    - (a) the water level in that lagoon is less than or equal to 50% of the full containment volume of the lagoon, or
    - (b) an environmental diversion into Thegoa Lagoon has caused the water level in that lagoon to increase from less than or equal to 50% of the full containment
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volume of the lagoon to greater than 50% of the full containment volume of the lagoon, until such time as the water level in the lagoon increases due to water entering the lagoon that is not from an environmental diversion. For the purposes of this paragraph, an *environmental diversion* means licensed environmental water as defined under section 8 (1) (b) of the Act or water diverted into Thegoa Lagoon from the New South Wales Murray Regulated River Water Source Additional Environmental Allowance under clause 15 (24) of the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2003*.

**Notes.**

- 1 At the commencement of this Plan, it is estimated that 50% of the full containment volume of Thegoa Lagoon equates to a depth of water of 0.87 metres at staff gauge # 42510083.
  - 2 The Minister may make a temporary water restriction order under section 324 of the Act directing that, for a specified period, the taking of water from a specified water source is prohibited, or is subject to specified restrictions, as the case requires, if satisfied that it is necessary to do so in the public interest. Temporary water restrictions may be considered by the Minister in order to protect environmental diversions into Thegoa Lagoon.
- (9) 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 4 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 (10):
    - (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) the taking of water for stock watering only under a domestic and stock access licence or a domestic and stock (subcategory “stock”) access licence that existed at the commencement of this Plan, for the first five years of this Plan, provided the volume of water taken does not exceed 14 litres per hectare of grazeable area per day,
  - (d) the taking of water using a runoff harvesting dam or from an in-river dam pool,
  - (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 4 applies, and
  - (f) the taking of water under a local water utility access licence held by Essential Energy.
- (10) The Minister may reduce the maximum daily volume limit imposed by the rule under subclause (9) (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 (10) 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.

#### **42 Access rules for the taking of water from the Lower Darling Alluvial Groundwater Source**

- (1) This clause applies to the taking of water under an access licence from the Lower Darling Alluvial Groundwater Source, excluding:
    - (a) the taking of water under an access licence that nominates an aquifer interference approval, and
    - (b) the taking of water under a salinity and water table management access licence.
  - (2) Subject to subclause (5), water must not be taken under an access licence unless the electrical conductivity of the water taken is less than 3000  $\mu\text{S}/\text{cm}$ .
  - (3) Subject to subclause (5), water must not be taken under an access licence unless
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available water determinations made for regulated river (general security) access licences in the Lower Darling Regulated River Water Source as identified in the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2003* are equal to 0 ML per unit share.

- (4) Subclause (3) does not apply to the taking of water under access licences that replaced the entitlement 60BL216046 issued under Part 2 of the *Water Act 1912*.
- (5) Subclauses (2) and (3) do not apply to the following:
- (a) the taking of water under an access licence to which clause 1 of Schedule 5 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 (6):
    - (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) the taking of water for stock watering only under a domestic and stock access licence or a domestic and stock (subcategory “stock”) access licence that existed at the commencement of this Plan, for the first five years of this Plan, provided the volume of water taken does not exceed 14 litres per hectare of grazeable area per day, and
  - (d) the taking of water under a local water utility access licence or an aquifer access licence of the subcategory “Town water supply” to which clause 2 of Schedule
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5 applies.

- (6) The Minister may reduce the maximum daily volume limit imposed by the rule under subclause (5) (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 (6) 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.

### 43 Total daily extraction limits

At the commencement of this Plan, there are no total daily extraction limits (hereafter *TDELS*) established for any access licences in these water sources.

**Notes.**

- 1 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 a TDEL may result in the imposition of individual daily extraction limits under clause 44.
- 2 Part 12 of this Plan allows for amendments to be made to establish TDELS.

### 44 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 43 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.** Part 12 of this Plan allows for amendments to be made to establish IDELS.

## **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 that take surface water**

#### **45 General**

The rules in this Division apply to water supply work approvals for water supply works that may be used to take water from the Lower Murray-Darling Unregulated Water Source.

#### **46 Granting or amending water supply work approvals**

- (1) If the sum of the share components of access licences nominating a water supply work that is a runoff harvesting dam or an in-river dam is reduced via:
  - (a) a dealing,
  - (b) the surrender under section 77 of the Act and then the cancellation under 77A (6) of the Act of an access licence,
  - (c) the amendment of the share component of the 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,

the Minister may require the modification or removal of the dam to ensure that the capability of the dam to capture runoff is reduced to reflect the reduction in share component.

### **Notes.**

- 1 Water supply work approvals may be granted or amended for in-river dams on third or higher order streams within all water sources and management zones to which this Plan applies, consistent with the principles of the Act.
  - 2 Under section 102 (3) of the Act, the mandatory conditions of an approval may be
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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.

- (2) Subject to subclause (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 being used or is proposed to be used to take or divert water to or from:
- (a) a lagoon listed in Schedule 3, or
  - (b) Thegoa Lagoon.
- (3) Subclause (2) does not apply to the granting or amendment of a water supply work approval for a replacement water supply work used or proposed to be used to take or divert water from a lagoon listed in Schedule 3 or Thegoa Lagoon. 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 or diverting water from a lagoon listed in Schedule 3 or Thegoa Lagoon, 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.

**Note.** The mandatory conditions provisions of this Plan require water supply works that are replaced to be decommissioned (unless otherwise directed by the Minister) and notified to the Minister within two months of decommissioning. See clause 64 (1) (c) and (d).

#### **47 Rules for the use of water supply works located on a pool, lagoon or lake**

A water supply work that is authorised to take water from a pool, lagoon or lake must not, in any water year, be used to take more water than the volume of water that is equal to the sum of the share components of the access licences nominating that water supply work at the commencement of this Plan.

### **Division 2 Rules applying to water supply works that take water from the Lower Darling Alluvial Groundwater Source**

#### **48 General**

- (1) The rules in this Division apply to water supply work approvals for water supply works that may be used to take water from the Lower Darling Alluvial Groundwater
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Source.

- (2) In this Division, a reference to a water supply work is limited to a water supply work that may be used to take water from the Lower Darling Alluvial Groundwater Source.

#### **49 Rules for amending water supply work approvals for replacement groundwater works**

- (1) The Minister may amend a water supply work approval to alter the water supply work to which the approval relates if the Minister is satisfied that the amendment is to authorise a replacement groundwater work.
- (2) For the purpose of this Plan, *replacement groundwater work* means a water supply work that replaces an existing water supply work constructed and used for the purpose of taking water from an aquifer where:
- (a) the existing water supply work is authorised by a water supply work approval under the Act,
  - (b) the replacement groundwater work is to be constructed to extract water from the same water source as the existing water supply work,
  - (c) the replacement groundwater work is to be constructed to extract water from:
    - (i) the same depth as the existing water supply work, or
    - (ii) a different depth if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems,
  - (d) the replacement groundwater work is to be located:
    - (i) within 20 metres of the existing water supply work, or
    - (ii) more than 20 metres from the existing water supply work if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems,
  - (e) the existing water supply work is located within 40 metres of the high bank of a river and the replacement groundwater work is to be located:
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- (i) within 20 metres of the existing water supply work but no closer to the high bank of the river, or
  - (ii) more than 20 metres from the existing water supply work but no closer to the high bank of the river if the Minister is satisfied that doing so will result in no greater impact on a water source or its dependent ecosystems, and
- (f) the replacement groundwater work must not have a greater internal diameter or excavation footprint than the existing water supply work, except where the internal diameter of the casing of the existing water supply work is no longer manufactured, in which case the internal diameter of the replacement groundwater work is to be no greater than 110% of the internal diameter of the existing water supply work it replaces. For the purposes of this paragraph, *internal diameter* means the diameter of the inside of the casing of the water supply work which is a water bore and *excavation footprint* means the authorised dimensions of a water supply work which is an unlined excavation constructed for the purposes of water supply only.
- (3) For the purpose of subclause (2) (c) (ii), the Minister may require that the applicant submit a hydrogeological study to demonstrate to the Minister's satisfaction that the construction of the water supply work at a different depth to the existing water supply work will result in no greater impact on a water source or its dependent ecosystems.
- (4) For the purposes of subclause (2) (d) (ii) or (e) (ii), the Minister may require that the applicant submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a distance greater than 20 metres from the existing water supply work will result in no greater impact on a water source or its dependent ecosystems.

**Notes.**

- 1 The Minister may amend an approval on the application of the holder of the approval, under section 107 of the Act. The operation of section 107 (3) of the Act may further restrict the replacement of an existing water supply work.
- 2 Part 12 allows for amendments to be made to clause 49.

**50 Rules to minimise interference between water supply works**

- (1) A water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located within:
    - (a) 400 metres of a water supply work on another landholding that is authorised to take water from the same groundwater source pursuant to an access licence,
    - (b) 400 metres of a water supply work on another landholding that is authorised to take water from the same groundwater source pursuant to basic landholder rights,
    - (c) 200 metres from the boundary of the land on which the water supply work is located, unless the owner of the land adjoining the boundary has provided consent in writing,
    - (d) 1000 metres of a water supply work authorised to take water from the same water source by a local water utility or a major utility, unless the local water utility or major utility has provided consent in writing, or
    - (e) 500 metres of a Departmental observation or monitoring bore, unless the Minister has provided consent in writing.
  - (2) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
    - (a) the water supply work is solely for basic landholder rights,
    - (b) the water supply work is a replacement groundwater work,
    - (c) the water supply work is for the purpose of monitoring, environmental management or remedial works, or
    - (d) the location of the water supply work would result in no more than minimal impact on existing extractions within these water sources.
  - (3) For the purpose of subclause (2) (d), the Minister may request the applicant to undertake a hydrogeological study, submitted by the applicant to demonstrate to the
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Minister's satisfaction that, the location of the water supply work at a lesser distance would result in no more than minimal impact on existing extractions within these water sources.

- (4) The Minister may require the modification of a water supply work referred to in subclause (2) (d) to minimise the impact of the work on existing water levels or extraction, if the Minister is satisfied that the location of the water supply work is causing more than minimal impact on existing water levels or extraction.

**Note.** 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.

## **51 Rules for water supply works located near contamination sources**

- (1) A water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located:
- (a) within 250 metres of the plume associated with a contamination source listed in Schedule 6,
  - (b) between 250 metres and 500 metres of the plume associated with a contamination source listed in Schedule 6, unless the Minister is satisfied that no drawdown of water will occur within 250 metres of that plume, or
  - (c) at a distance specified by the Minister that is more than 500 metres from the plume associated with a contamination source listed in Schedule 6, if a greater distance is determined by the Minister to be necessary to protect the water source, the environment or public health and safety.
- (2) The distance restrictions specified in subclause (1) do not apply to the grant or amendment of a water supply work approval if the Minister is satisfied that:
- (a) the proposed distance is adequate to protect the water source, its dependent ecosystems and public health and safety, or
  - (b) the water supply work is for the purpose of monitoring, environmental management or remedial works.
- (3) For the purpose of subclause (2) (a), the Minister may request the applicant to
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undertake a hydrogeological study, submitted by the applicant to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance would result in no greater impact on dependent ecosystems and public health and safety.

## **52 Rules for water supply works located near sensitive environmental areas**

- (1) A water supply work approval must not be granted or amended to authorise the construction of a water supply work which, in the Minister's opinion, is located:
  - (a) within 100 metres of a high priority groundwater dependent ecosystem listed in Schedule 6 in the case of a water supply work used solely to take water pursuant to basic landholder rights,
  - (b) within 200 metres of a high priority groundwater dependent ecosystem listed in Schedule 6 in the case of a water supply work not used solely to take water pursuant to basic landholder rights,
  - (c) at a distance that is more than 200 metres from a high priority groundwater dependent ecosystem listed in Schedule 6, excluding water supply works used solely to take water pursuant to basic landholder rights, if the Minister is satisfied that the water supply work is likely to cause more than minimal drawdown at the perimeter of any high priority groundwater dependent ecosystem listed in Schedule 6, or
  - (d) within 40 metres of the top of the high bank of a river.
- (2) The distance restrictions specified in subclause (1) (a) and (b) do not apply to the granting or amendment of a water supply work approval if the Minister is satisfied that no more than minimal drawdown of water will occur at the perimeter of any high priority groundwater dependent ecosystem listed in Schedule 6.
- (3) The distance restrictions specified in subclause (1) do not apply to the granting or amendment of a water supply work approval if the Minister is satisfied that:
  - (a) the water supply work is for the purpose of monitoring, environmental management or remedial works,

- (b) the water supply work replaces an existing authorised water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply,
  - (c) the water supply work is a replacement groundwater work, or
  - (d) the location of the water supply work at a lesser distance would result in no greater impact on these water sources and their groundwater dependent ecosystems.
- (4) The Minister may request the applicant to undertake a hydrogeological study, submitted by the applicant to demonstrate to the Minister's satisfaction that:
  - (a) for the purpose of subclause (2), no more than minimal drawdown of water will occur at the perimeter of any high priority groundwater dependent ecosystem listed in Schedule 6, or
  - (b) for the purpose of subclause (3) (d), the location of the water supply work at a lesser distance would result in no greater impact on these groundwater sources and their groundwater dependent ecosystems.

**53 Rules for water supply works located near groundwater dependent culturally significant sites**

- (1) A water supply work approval must not be granted or amended to authorise the construction of a water supply work to take water from the Lower Darling Alluvial Groundwater Source which, in the Minister's opinion, is located within:
    - (a) 100 metres of a groundwater dependent culturally significant site, in the case of a water supply work used solely to take water pursuant to basic landholder rights, or
    - (b) 200 metres of a groundwater dependent culturally significant site, in the case of a water supply work not used solely to take water pursuant to basic landholder rights.
  - (2) The distance restrictions specified in subclause (1) do not apply to the granting or amendment of a water supply work approval if the Minister is satisfied that:
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- (a) the water supply work is for the purpose of monitoring, environmental management or remedial works,
  - (b) the water supply work replaces an existing authorised water supply work that is part of a bore network for a major utility or a local water utility for the purpose of town water supply,
  - (c) the water supply work is sealed off to the nearest impervious layer above the slotted intervals of the work with an impermeable seal constructed between the casing and the bore hole in accordance with any requirements specified by the Minister,
  - (d) the water supply work is a replacement groundwater work, or
  - (e) the location of the water supply work at a lesser distance would result in no more than minimal impact on these water sources and their groundwater dependent culturally significant sites.
- (3) For the purpose of subclause (2) (e), the Minister may request the applicant to undertake a hydrogeological study, submitted by the applicant to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance would result in no more than minimal impact on these water sources and their groundwater dependent culturally significant sites.

**Note.** Culturally significant sites will be identified as a part of the assessment undertaken by the Department during the processing of an application for the granting or amending of a water supply work approval.

#### **54 Rules for the use of water supply works located within restricted distances**

- (1) Subject to subclauses (2) and (3), a water supply work that is located within a restricted distance specified in clauses 50 to 53 must not, in any water year, be used to take more water than the volume of water that is equal to the sum of the share components of the access licences nominating that water supply work at the commencement of this Plan.
  - (2) Subject to subclause (3), a water supply work that becomes located within a restricted distance specified in clauses 50 to 53, as a result of an amendment to this Plan, must not, in any water year, be used to take more water than the volume of water that is
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equal to the sum of share components of access licences nominating that water supply work at the date of the amendment.

- (3) Subclauses (1) and (2) do not apply where a restricted distance does not apply in accordance with clause 50 (2), 51 (2), 52 (2) and (3) or 53 (2).

**Note.** The water quality from any bore can be affected by land use activities and inherent water quality in the aquifer. Water quality cannot be guaranteed and extracted water and may be unsuitable for human consumption and other uses. The quality of water extracted should be tested before being used and appropriately treated. Such testing and treatment is the responsibility of the licence holder.

**Note.** Part 12 allows for amendments to be made to clause 54.

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

### **55 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.

### **56 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 in these water sources.

### **57 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 that does not nominate a water supply work located within a lagoon listed in Schedule 3 to an access licence that nominates a water supply work located within a lagoon listed in Schedule 3,
    - (b) an access licence that nominates a water supply work located within a lagoon listed in Schedule 3 to an access licence that nominates a water supply work located within another lagoon listed in Schedule 3,
    - (c) an access licence that does not nominate a water supply work located within Thegoa Lagoon to an access licence that nominates a water supply work located within Thegoa Lagoon,
    - (d) an access licence that does not nominate a water supply work located within the
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Great Darling Anabranh to an access licence that nominates a water supply work located within the Great Darling Anabranh, unless the Minister is satisfied that the proposed dealing is for an environmental purpose, or

- (e) an access licence with a share component that specifies the Lower Darling Alluvial Groundwater Source to another access licence with a share component that specifies the Lower Darling Alluvial Groundwater Source where, in the Minister's opinion, the taking of water under that access licence is subject to a lower cease to take condition.

**58 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 in these water sources.

**59 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:
    - (a) an assignment of water allocation from an access licence that does not nominate a water supply work located within a lagoon listed in Schedule 3 to an access licence that nominates a water supply work located within a lagoon listed in Schedule 3,
    - (b) an assignment of water allocation from an access licence that nominates a water supply work located within a lagoon listed in Schedule 3 to an access licence that nominates a water supply work located within another lagoon listed in Schedule 3,
    - (c) an assignment of water allocation from an access licence that does not nominate a water supply work located within Thegoa Lagoon to an access licence that nominates a water supply work located within Thegoa Lagoon,
    - (d) an assignment of water allocation from an access licence that does not nominate a water supply work located within the Great Darling Anabranh to an access
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licence that nominates a water supply work located within the Great Darling Anabranh, unless the Minister is satisfied that the proposed dealing is for an environmental purpose, or

- (e) an assignment of water allocation from an access licence with a share component that specifies the Lower Darling Alluvial Groundwater Source to another access licence with a share component that specifies the Lower Darling Alluvial Groundwater Source where, in the Minister's opinion, the taking of water under that access licence is subject to a lower cease to take condition.
- (3) Dealings under section 71T of the Act between different water sources are prohibited in these water sources.

#### **60 Interstate transfer of access licences and assignment of water allocation**

- (1) This clause relates to dealings under section 71U or 71V of the Act in these water sources.
- (2) Dealings involving the interstate transfer of an access licence to or from these water sources are prohibited.
- (3) Dealings involving the interstate assignment of water allocations to or from access licences in these water sources are prohibited.

#### **61 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 that does not nominate a water supply work located within a lagoon listed in Schedule 3 being amended to nominate a water supply work located within a lagoon listed in Schedule 3,
    - (b) an access licence that nominates a water supply work located within a lagoon listed in Schedule 3 being amended to nominate a water supply work located within another lagoon listed in Schedule 3,
    - (c) an access licence that does not nominate a water supply work located within
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Thegoa Lagoon being amended to nominate a water supply work located within Thegoa Lagoon, or

- (d) an access licence that does not nominate a water supply work located within the Great Darling Anabranch being amended to nominate a water supply work located within the Great Darling Anabranch, unless the Minister is satisfied that the proposed dealing is for an environmental purpose.

## Part 11 Mandatory conditions

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

### Division 1 Access licences

#### 62 General

In this Part:

- (a) a requirement to notify the Minister in writing is satisfied by making a notification in writing to one of the addresses listed in Appendix 2 of this Plan or to the email address for the Department Licensing Enquiries Information Centre,

**Note.** At the commencement of this Plan, the email address for the Department Licensing Enquiries Information Centre is [information@water.nsw.gov.au](mailto:information@water.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 *Australian Technical Specification ATS 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.

### Division 2 Access licences

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

#### 63 General

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

- (a) the relevant water allocation account management rules specified in Division 1
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- 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 where required to give effect to the following:
- (a) the holder of the access licence must keep a Logbook,
  - (b) the holder of the access licence, except for a salinity and water table management 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 was taken on that date,
    - (v) for domestic and stock access licences, local water utility access licences and unregulated river access licences in the Lower Murray-Darling Unregulated Water Source the volume of water taken the first three water years in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in that water year under clause 38 (2),

- (vi) for domestic and stock access licences, local water utility access licences and unregulated river access licences in the Lower Murray-Darling Unregulated Water Source, the volume of water taken in any three consecutive water years after the first water year in which this Plan has effect, by comparison to the maximum volume permitted to be taken in those years under clause 38 (3),
  - (vii) for domestic and stock access licences, local water utility access licences and aquifer access licences in the Lower Darling Alluvial Groundwater Source, the volume of water taken in any water year in which this Plan has effect, by comparison to the maximum volume of water permitted to be taken in that water year under clause 39 (2),
  - (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
- (c) the holder of a salinity and water table management access licence must record the following in the Logbook:
- (i) the dates and periods of time during which water was taken under the access licence for the previous monthly accounting period,
  - (ii) the volume of water taken for the previous monthly accounting period,
  - (iii) the water supply work approval number for the water supply work used to take water during the previous monthly accounting period,
  - (iv) the volume of water taken in any water year, by comparison to the maximum volume of water permitted to be taken in that water year under clause 38 (4), and
  - (v) any other information required to be recorded in the Logbook under the rules of this Plan.
- (d) the holder of the access licence must produce the Logbook to the Minister for inspection, when requested, and
- (e) the holder of the access licence must retain the information required to be
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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.
- (5) All salinity and water table management access licences must have a mandatory condition that specifies that water must only be taken under the access licence for the purpose of reducing or preventing an increase in salinity levels in a water source.
- (6) An access licence for a project under Part 4 for State Significant Development or Part 3A 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 and to give effect to the rules for the use of water supply works located within restricted distances specified in clause 54.

### **Division 3 Water supply work approvals**

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

#### **64 General**

- (1) Water supply work approvals for water supply works in these water sources must have mandatory conditions where required 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,

- (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 *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 specified in the notice, and

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

- (c) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned, unless otherwise directed by the Minister in writing,
  - (d) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned,
  - (e) any other conditions required to implement the provisions of this Plan.
- (2) Water supply work approvals for water supply works in these water sources must have mandatory conditions where required 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,
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- (b) the holder of a water supply work approval must record the following in the Logbook:
- (i) for water supply work approvals that nominate an access licence other than a salinity and water table management access licence, each date and period of time during which water was taken using the water supply work,
  - (ii) for water supply work approvals that nominate a salinity and water table management access licence only, the dates and periods of time during which water was taken under the access licence for the previous monthly accounting period,
  - (iii) for water supply work approvals that nominate an access licence other than a salinity and water table management access licence, the volume of water taken on that date,
  - (iv) for water supply work approvals that nominate a salinity and water table management access licence only, the volume of water taken for the previous monthly accounting period,
  - (v) 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,
  - (vi) the purpose or purposes for which the water was taken on that date,
  - (vii) 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,
  - (viii) where metering equipment has been installed for use in connection with the water supply work, the meter reading before water is taken,
  - (ix) 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,
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and

- (x) 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.
- (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 have a mandatory condition where required to give effect to clause 46 (1).
- (5) A water supply work approval for a replacement groundwater work must have mandatory conditions where required to give effect to the requirements for a replacement groundwater work specified in or specified by the Minister in accordance with clause 49.

## **65 Water supply works used to take water from the Lower Darling Alluvial Groundwater Source**

- (1) This clause applies to all water supply work approvals for water supply works that may be used to take water contained within the Lower Darling Alluvial Groundwater Source.
  - (2) Water supply work approvals to which this clause applies must have mandatory conditions where required to give effect to the following:
    - (a) the rules for limiting the taking of water within the distance restrictions as
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- specified in clause 54,
- (b) the approval holder must ensure the water supply work is constructed so as to be:
    - (i) screened in the groundwater source specified in the share component of the access licence that nominates the work, and
    - (ii) sealed off from all other water sources,
  - (c) the construction of a new water supply work must:
    - (i) comply with the restricted distances specified in or specified by the Minister in accordance with clauses 50 to 53,
    - (ii) comply with the construction standards for that type of bore prescribed in the *Minimum Construction Requirements for Water Bores in Australia*, and
    - (iii) be constructed appropriately so as to prevent contamination between aquifers,
  - (d) the approval holder must ensure that if the water supply work is abandoned or replaced that it is decommissioned in compliance with the “minimum requirements for decommissioning bores” prescribed in the *Minimum Construction Requirements for Water Bores in Australia*, unless otherwise directed by the Minister in writing,
  - (e) within two months of the decommissioning of the water supply work, the approval holder must notify the Minister in writing that the water supply work has been decommissioned,
  - (f) the approval holder must, within two months of completion of the construction of the water supply work, or within two months after the issue of the water supply work approval if the water supply work is existing, submit to the Department in a form approved by the Minister, the details of the work,
  - (g) if, during the construction of the water supply work, saline or contaminated water is encountered above the production aquifer, the approval holder must:
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- (i) notify the Minister within 48 hours of becoming aware of the contaminated water,
- (ii) take all reasonable steps to minimise contamination and environmental harm,
- (iii) ensure that such water is sealed off by inserting casing to a depth sufficient to exclude the saline or contaminated water from the water supply work and, if specified by the Minister, place an impermeable seal between the casing(s) and the walls of the water supply work from the bottom of the casing to ground level as specified by the Minister, and
- (iv) if the Minister has specified any other requirements, comply with any requirements specified by the Minister in writing,

provided that this paragraph does not apply where the water supply work nominates a salinity and water table management access licence only and the only contamination encountered is salinity,

- (h) when directed by the Minister by notice in writing, the approval holder must provide a report in the form specified in the notice detailing the quality of any water obtained using the water supply work,
  - (i) the water supply work approval will lapse if the construction of the water supply work is not completed within three years of the issue of the water supply work approval,
  - (j) construction of the work must not occur after three years from the approval being granted, and
  - (k) any other conditions required to implement the provisions of this Plan.
- (3) A water supply work approval granted in circumstances where clause 50 (2) (d) applies must have a mandatory condition where required to give effect to clause 50 (4).

**Note.** Part 12 of this Plan allows for amendments to be made to clause 65.

## Part 12 Amendment of this Plan

### 66 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.

### 67 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 to 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 Registered Map.

### 68 Part 6

Part 6 may be amended to modify a long-term average annual extraction limit as a result of the granting of a salinity and water table management access licence.

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**69 Part 8**

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

- (a) establish a new or additional flow class or 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 67,
  - (b) amend clause 41:
    - (i) in relation to aquifer interference approvals,
    - (ii) to establish access rules for salinity and water table management access licences,
    - (iii) to specify alternate access rules for lagoons, lakes, in-river pools and other lentic water bodies, or
    - (iv) to extend the exemption to the cease to take conditions for stock watering purposes specified in clause 41 (9) (c) beyond year five of this Plan and/or modify the volume of water permitted to be taken for stock watering purposes after year five of this Plan,
  - (c) 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,
  - (d) establish or assign TDELS in these water sources or management zones to protect a proportion of flow within each flow class for the environment,
  - (e) amend or remove TDELS if TDELS have been established or assigned,
  - (f) include rules for the establishment, assignment and removal of IDELS,
  - (g) remove the existing access rules where TDELS and/or IDELS have been established under paragraphs (d) and/or (f) to protect a proportion of flow
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within each flow class for the environment, or

- (h) reinstate access rules that applied at the commencement of this Plan, where TDELs and IDELs have been removed under paragraphs (e) and (f).

## 70 Part 9

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

- (a) amend clause 46 to specify water sources or management zones where water supply work approvals must not be granted or amended to authorise an in-river dam on a third or higher order stream,
- (b) amend the definition of a replacement groundwater work in clause 49,
- (c) add, remove or modify a restricted distance specified in:
  - (i) clause 50 after year five of this Plan, or
  - (ii) clause 52 based on the outcomes of further studies of groundwater dependent ecosystems that are to the Minister's satisfaction or
- (d) amend clause 54 to impose further restrictions on the rate and timing of extraction of water from the respective water source to mitigate impacts.

## 71 Part 11

Part 11 may be amended to do any of the following:

- (a) amend the rules in relation to record keeping including amendments in relation to requirements for Logbooks, or
- (b) clause 65 to specify different standards for decommissioning water supply works or construction requirements for water supply works.

## 72 Schedules

- (1) Schedule 1 may be amended to add, modify and/or remove a definition.
  - (2) Schedule 2 may be amended to remove or add sections of watercourses that are to be
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excluded from this Plan.

- (3) Schedule 3 may be amended to add or remove a lagoon.
- (4) Schedule 4 may be amended to do any of the following:
  - (a) add a new access licence to clause 1 of Schedule 4, 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 41 (9) (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 4, 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 4 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,
  - (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 4 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,
  - (e) add a new access licence to clause 1 of Schedule 5, 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 42 (5) (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,

- (f) add a local water utility access licence or an aquifer (subcategory “town water supply”) access licence to clause 2 of Schedule 5, provided the Minister is satisfied that the water supply system used to extract, store and deliver water has not undergone major augmentation since the commencement of this Plan, or
  - (g) remove a local water utility or an aquifer (subcategory “town water supply”) access licence or former *Water Act 1912* entitlement from clause 2 of Schedule 5 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.
- (5) Schedule 4 may be deleted if the Minister is satisfied that it is no longer required.
  - (6) Schedule 5 may be amended to remove an access licence or former *Water Act 1912* entitlement from Schedule 5 if:
    - (a) an access licence dealing results in the water being extracted under the licence being taken from a different location,
    - (b) an alternative water supply is obtained, or
    - (c) the licence is surrendered or cancelled or its purpose ceases to exist.
  - (7) Schedule 5 may be deleted if the Minister is satisfied that it is no longer required.
  - (8) Schedule 6 may be amended to add or remove a contamination source.
  - (9) Schedule 7 may be amended to add or remove a high priority groundwater dependent ecosystem.

### 73 Other

- (1) This Plan may be amended to provide rules for the following:
  - (a) managed aquifer recharge,

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**Note.** Managed aquifer recharge schemes involve taking water such as recycled water

or urban stormwater, treating it and then storing it in underground aquifers under controlled conditions. This water can then be extracted at a later time.

- (b) the management of floodplain harvesting within these water sources,
  - (c) the shepherding of water,
  - (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 management of salt interception schemes,
  - (f) the interception of water before it reaches a stream or aquifer by plantations or other means,
  - (g) the development of a management plan for the Great Darling Anabranch, or
  - (h) the use of flood control works or water supply works located on the Great Darling Anabranch and its associated lakes.
- (2) This Plan may be amended to allow for the granting of aquifer interference approvals and the management of aquifer interference activities.
- (3) This Plan may be amended following the granting of a native title claim pursuant to the provisions of the *Native Title Act 1993* (Cth) to give effect to an entitlement granted under that claim.
- (4) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.
- (5) This Plan may be amended after year five to provide 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
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water dependent Aboriginal cultural assets, and/or

- (d) amendments to the dealing rules to protect water dependent Aboriginal cultural assets.

## 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*.

**alluvial sediments** means unconsolidated fluvio-lacustrine sediments.

**cease to take condition** means any condition on a water supply work approval or an access licence under which water is proposed to be taken, that prohibits the taking of water in a particular circumstance.

**drawdown** means a lowering of the level to which water will rise in cased bores. Natural drawdown may occur due to seasonal climatic changes. Groundwater pumping may also result in seasonal and long-term drawdown.

**fractured rock** means sedimentary, igneous and metamorphic rocks with fractures, joints, bedding planes and cavities in the rock mass that are capable of transmitting water.

**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.

**grazeable area** means, for an individual landholding, the area of pasture in hectares for a pasture type that is accessible for stock grazing and able to grow appropriate vegetation for stock grazing, but does not include impervious surfaces (such as rocks or rocky terrain, man-made structures, mines or quarries) or other such surfaces that do not support grazing vegetation, such as water bodies and forested floors with no undergrowth.

**groundwater dependent ecosystems** includes ecosystems which have their species composition and natural ecological processes wholly or partially determined by groundwater.

**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.

**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.

**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.

**porous rock** means consolidated sedimentary rock containing voids, pores or other openings (such as joints, cleats and/or fractures) which are interconnected, in the rock mass and are capable of transmitting water.

**Registered Map** has the same meaning as in clause 4 (2) of this Plan.

**replacement groundwater work** has the same meaning as in clause 49 (2) of this Plan.

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***runoff harvesting dam*** is a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the Act. 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.

***slotted intervals*** means that part of the water bore where slots in the casing occur which are designed to allow water to enter the bore.

***stream order*** means the stream order defined by the Strahler stream ordering method set out in Part 1 of Schedule 2 to the *Water Management (General) Regulation 2011*.

***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 the continuous downstream movement of water that is perceptible to the eye.

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

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

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Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011

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## Schedule 2 Water sources to which this Plan does not apply

<b>Column 1</b>  <b>Stream</b>	<b>Column 2</b>  <b>Section</b>
Darling River	From the junction of the Culgoa and Barwon Rivers (NW corner of lot 4084 DP 766589) to the full storage capacity high water mark of Lake Wetherell (upstream extent of the Lower Darling Regulated River).

**Note.** The sections of water sources specified in the table above are proposed to be included in the water sharing plan being developed for the Barwon-Darling Unregulated and Alluvial Water Sources.

**Schedule 3 Identified Lagoons**

<b>Column 1</b> <b>Water Source</b>	<b>Column 2</b> <b>Name of Lagoon</b>	<b>Column 3</b> <b>Location</b>	<b>Column 4</b> <b>Parish/County</b>
Lower Murray-Darling Unregulated Water Source	Neilpo Lagoon	Wentworth	Neilpo/Wentworth
Lower Murray-Darling Unregulated Water Source	Boeill Lagoon	Buronga	Mourquong/Wentworth
Lower Murray-Darling Unregulated Water Source	Peacock Creek	Maniette	Maniette/Taila

**Schedule 4 Access licences used to take from the Lower Murray-Darling Unregulated Water Source 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.

<b><i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan</b>

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

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

<b><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</b>

**Schedule 5 Access licences used to take water from the Lower Darling Alluvial Groundwater Source 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.

<b><i>Water Act 1912</i> entitlements that will be replaced by access licences on commencement of this Plan</b>
60BL216411
60BL216258

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

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

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

## **Schedule 6 Contamination sources in these water sources**

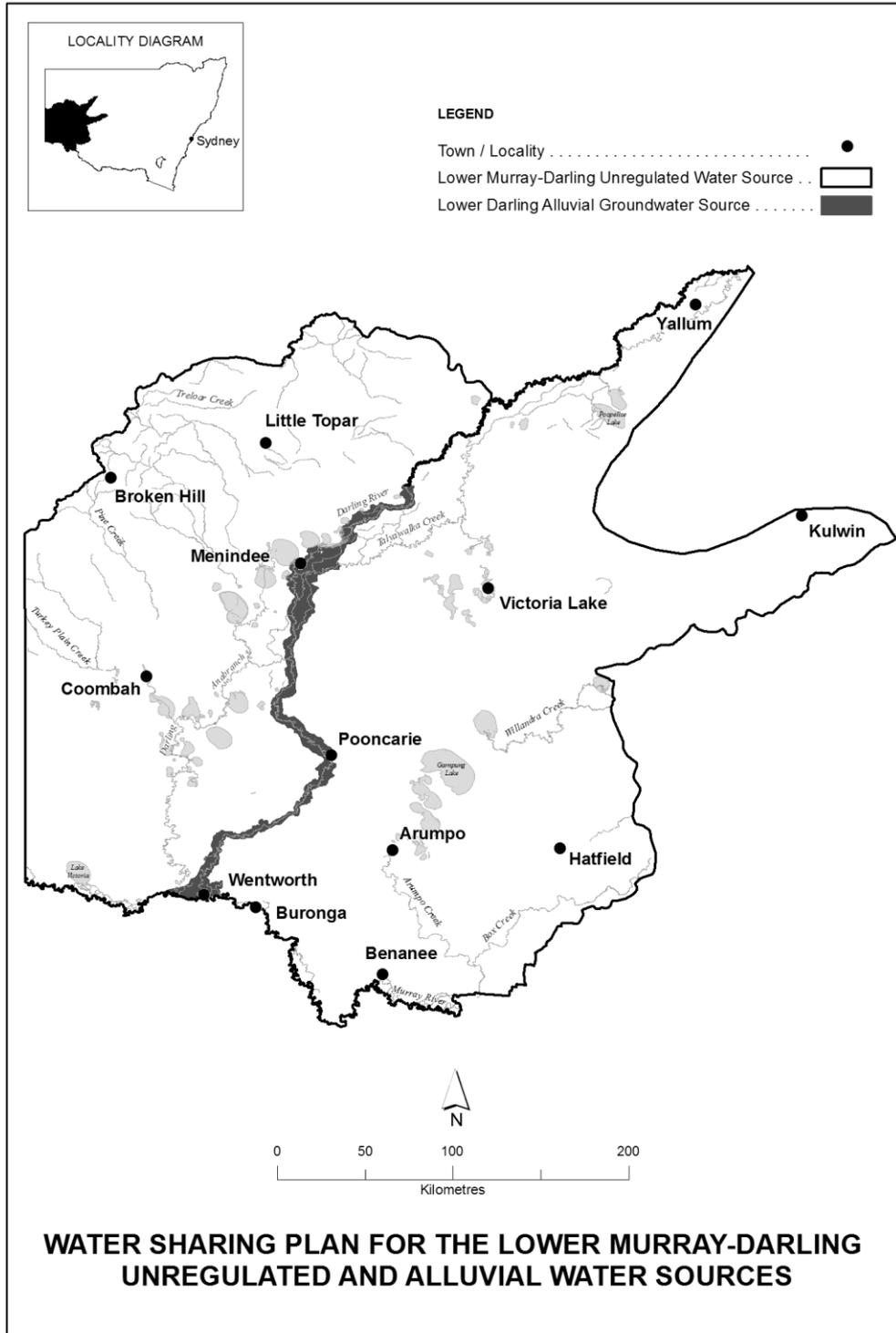
Contamination sources in these water sources comprise the following:

- (a) on site sewage disposal systems or septic tanks,
- (b) any sites which have been declared to be significantly contaminated land under the *Contaminated Land Management Act 1997*,
- (c) any sites that are or have been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979 from time to time, and
- (d) any sites listed in an agency database relating to contamination sources.

## **Schedule 7 High priority groundwater dependent ecosystems**

**Note.** High priority groundwater dependent ecosystems (hereafter **GDEs**) are currently under investigation and some may be identified during the term of this Plan. The full list of potential GDEs will be identified on the Departmental GDE Register and as a precautionary approach, will be considered by staff in the assessment of any application for a water supply work approval within the area of this Plan. If it becomes verified as a high priority GDE, this Schedule will be amended to include the GDE.

**Appendix 1 Overview of the Registered Map**



## **Appendix 2    Offices**

NSW Office of Water,  
Department of Trade and Investment, Regional Infrastructure and Services  
10 Valentine Ave  
PARRAMATTA NSW 2150

NSW Office of Water,  
Department of Trade and Investment, Regional Infrastructure and Services  
32 Enterprise Way  
BURONGA NSW 2739