



New South Wales

Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016

under the

Water Management Act 2000

I, the Minister for Lands and Water, in pursuance of section 50 of the *Water Management Act 2000*, do, by this Order, make the following Minister's Plan for the Deua River Unregulated and Alluvial Water Sources.

Dated this 29th day of June 2016.

NIALL BLAIR, MLC

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 Deua River Unregulated and Alluvial Water Sources 2016*. The concurrence of the Minister for the Environment was obtained prior to the making of this Order.

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Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016

Part 1 Introduction

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

1 Name of Plan

This Plan is the *Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016 (this Plan)*.

2 Nature and status of Plan

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

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

3 Commencement

This Plan commences on 1 July 2016.

Notes.

- 1 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2016.
- 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 Plan

- (1) This Plan applies to the following water sources known as the Deua River Unregulated and Alluvial Water Sources (*these water sources*) within the South East Water Management Area:
 - (a) Araluen Creek Water Source,
 - (b) Bettowynd and Moodong Creeks Water Source,
 - (c) Burra Creek Water Source,
 - (d) Deua River Water Source,
 - (e) Mogendoura Creek Water Source,
 - (f) Moruya River Water Source,

(g) Upper Deua River Water Source,

(h) Wamban Creek Water Source.

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

(2) These water sources are shown on the Plan Map called *Plan Map (WSP029_Version 1, Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016 (the Plan Map)* held by the Department.

Note. The Plan Map is part of this Plan. An overview of the Plan Map is shown in Appendix 1. Copies of the Plan Map may be inspected at the offices listed in Appendix 2 and are available on the NSW legislation website.

(3) Subject to subclause (4), these water sources include all water:

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

(b) in rivers, lakes, estuaries and wetlands within the boundaries of these water sources shown on the Plan Map, and

(c) contained within all alluvial sediments below the surface of the ground within the boundaries of these water sources (*these alluvial sediments*) shown on the Plan Map.

Note. *Alluvial sediments* is defined in the Dictionary.

(4) These water sources do not include water:

(a) contained in any fractured rock or porous rock, and

Notes.

1 *Fractured rock* and *porous rock* are defined in the Dictionary.

2 Granodiorites, including weathered granodiorites, are classified as fractured rock and will be included in the *Water Sharing Plan for the South Coast Groundwater Sources 2016* Water supply works taking groundwater in the Araluen Valley take water from the alluvial sediments or fractured rock.

(b) contained in all sand formations below the surface of the ground within the boundary of the South East Coastal Sands Groundwater Source shown on the Plan Map in the *Water Sharing Plan for the South Coast Groundwater Sources 2016*, as amended or replaced from time to time, or

(c) occurring in rivers, lakes, estuaries and wetlands downstream of the mangrove limit.

Note. *Mangrove limit* is defined in the Dictionary.

5 Management zones

(1) For the purposes of this Plan, the Deua River Water Source is divided into the following management zones:

- (a) Deua River upstream of Coopers Creek Management Zone,
- (b) Deua River downstream of Coopers Creek Management Zone.

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

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

6 Extraction management units for these water sources

(1) This Plan establishes the following extraction management units (*the EMUs*), which apply to the water source specified in Column 2 of Table A to this clause:

- (a) Araluen EMU, which applies to the water source specified in item (a) of Column 2 of Table A to this clause,
- (b) Deua River EMU, which applies to the water sources specified in item (b) of Column 2 of Table A to this clause.

(2) The EMUs specified in subclause (1) are shown on the Plan Map.

Note. A long-term average annual extraction limit is established in Part 6 of this Plan for each of the EMUs. The long-term average annual extraction limit determines the maximum volume of water that may be extracted under access licences and pursuant to domestic and stock rights and native title rights from all water sources within the EMU on a long-term average annual basis.

Table A – Extraction Management Units

	Column 1 – Extraction management unit	Column 2 – Water sources
(a)	Araluen Creek Extraction Management Unit	Araluen Creek Water Source
(b)	Deua River Extraction Management Unit	Bettowynd and Moodong Creeks Water Source Burra Creek Water Source Deua River Water Source Mogendoura Creek Water Source Moruya River Water Source

		Upper Deua River Water Source
		Wamban Creek Water Source

7 Understanding the rules in this Plan

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

8 Interpretation

- (1) Words and expressions that are defined in the Dictionary to this Plan have the meaning set out in the Dictionary.
- (2) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations made under the Act 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) The Dictionary and 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.

9 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.

10 Acknowledgment

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within these water sources.

11 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, and
Note. *Groundwater-dependent ecosystems* is defined in the Dictionary.
- (b) protect, preserve, maintain and enhance the Aboriginal, cultural and heritage values of these water sources, and
- (c) protect basic landholder rights, and
- (d) manage these water sources to ensure equitable sharing between users, and
- (e) provide opportunities for enhanced market based trading of access licences and water allocations within environmental and system constraints, and
- (f) provide water allocation account management rules which allow sufficient flexibility in water use, and
- (g) contribute to the maintenance of water quality, and
- (h) provide recognition of the connectivity between surface water and groundwater, and
- (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) (the NWI)*.

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:

- (a) 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, and
- (b) 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
- (c) 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.

12 Strategies

The strategies of this Plan are to:

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

13 Performance indicators

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

- (a) change in low flow regime,
 - (b) change in moderate to high flow regime,
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- (c) change in surface water and groundwater extraction relative to the long-term average annual extraction limits,
- (d) change in water quality in these water sources,
- (e) change in the ecological condition of these water sources and their dependent ecosystems,
- (f) the change in the extent to which domestic and stock rights and native title rights requirements have been met,
- (g) the change in economic benefits derived from water extraction and use,
- (h) the change in the extent to which water has been made available in recognition of the Aboriginal, cultural and heritage values of these water sources.

Part 3 Bulk access regime

14 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 under Part 4 of this Plan, and
 - (b) the requirements for water for basic landholder rights identified in Division 2 of Part 5 of this Plan, and
 - (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 under Part 10 of this Plan.
- (2) The bulk access regime for these water sources:
 - (a) recognises and is consistent with the limits on the availability of water set in relation to these water sources contained in Division 1 of Part 6 of this Plan, and
 - (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, and
 - (c) recognises the effect of climate variability on the availability of water as described in clause 15, and
 - (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, and
 - (e) contains provisions with respect to the conditions that must be imposed as mandatory conditions on access licences contained in Division 2 of Part 11 of this Plan, and
 - (f) recognises and is consistent with the water management principles set out in section 5 of the Act.

15 Climatic variability

This Plan recognises the effects of climatic variability on river flow and groundwater levels in these water sources by 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 for 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 this Part.

16 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.

17 Commitment and identification of planned environmental water

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

- (a) by reference to the commitment of the physical presence of water in these water sources,
- (b) by reference to the long-term average annual commitment of water as planned environmental water,
- (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.

18 Establishment and maintenance of planned environmental water

- (1) Planned environmental water is established in these water sources as follows:
 - (a) it is the physical presence of water in these water sources 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 these water sources set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.
 - (b) it is the long-term average annual commitment of water as planned environmental water in these water sources that results from the application of the long-term average annual extraction limit and compliance rules as specified in Division 1 of Part 6 of this Plan and the available water determination rules

as specified in Division 2 of Part 6 of this Plan,

- (c) it is 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.
- (2) The planned environmental water established under subclause (1) (a) is maintained in these water sources by the rules specified in Division 2 of Part 8 of this Plan.
- (3) The planned environmental water established under subclause (1) (b) is maintained in these water sources by the application of the long-term average annual extraction limit and compliance rules as specified in Division 1 of Part 6 of this Plan and the available water determinations as specified in Division 2 of Part 6 of this Plan.
- (4) The planned environmental water established under subclause (1) (c) is maintained in these water sources by the rules specified in Parts 6 and 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 limits. 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

19 Application

- (1) This Part identifies the requirements for water from these water sources for basic landholder rights (Division 2) and for extraction under access licences (Division 3).
- (2) The volumes 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, or
- (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

20 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 199 megalitres per year (*ML/year*), distributed as follows:

- (a) 30 ML/year in the Araluen Creek Water Source,
- (b) 24 ML/year in the Bettowind and Moodong Creeks Water Source,
- (c) 12 ML/year in the Burra Creek Water Source,

- (d) 39 ML/year in the Deua River Water Source,
- (e) 14 ML/year in the Mogendoura Creek Water Source,
- (f) 31 ML/year in the Moruya River Water Source,
- (g) 32 ML/year in the Upper Deua River Water Source,
- (h) 17 ML/year in the Wamban Creek Water 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. The volumes set out in this clause are separate from any volumes of water licensed for domestic and stock purposes in these water sources.
- 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.

21 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 are 0 ML/year.

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

22 Harvestable rights

The requirement for water under harvestable rights in these water sources is equal to 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 Division 2 of Part 1 of Chapter 3 of the Act.

Division 3 Requirements for water for extraction under access licences

23 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 total 30.5 ML/year, distributed as follows:

- (a) 8 ML/year in the Araluen Creek Water Source,
- (b) 0 ML/year in the Bettowind and Moodong Creeks Water Source,
- (c) 11 ML/year in the Burra Creek Water Source,

- (d) 0 ML/year in the Deua River Water Source,
- (e) 0 ML/year in the Mogendoura Creek Water Source,
- (f) 11.5 ML/ year in the Moruya River Water Source,
- (g) 0 ML/ year in the Upper Deua River Water Source,
- (h) 0 ML/year in the Wamban Creek Water Source.

24 Share component 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 total 4,345 ML/year, distributed as follows:

- (a) 4,345 ML/ year in Deua River Water Source,
- (b) 0 ML/ year in all other water sources.

25 Share component 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 these water sources total 1,193 unit shares, distributed as follows:

- (a) 366 unit shares in the Araluen Creek Water Source,
- (b) 20 unit shares in the Bettowind and Moodong Creeks Water Source,
- (c) 31 unit shares in the Burra Creek Water Source,
- (d) 464 unit shares in Deua River Water Source,
- (e) 11 unit shares in the Mogendoura Creek Water Source,
- (f) 155 unit shares in the Moruya River Water Source,
- (g) 61 unit shares in the Upper Deua River Water Source,
- (h) 85 unit shares in the Wamban Creek Water Source.

26 Share component 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 these water sources total 284 unit shares, distributed as follows:

- (a) 279 unit shares in the Araluen Creek Water Source,
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- (b) 5 unit shares in the Moruya River Water Source,
- (c) 0 unit shares in all other water sources.

Part 6 Limits to the availability of water

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

Division 1 Long-term average annual extraction limits

27 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.

28 Volume of the long-term average annual extraction limits

- (1) This clause establishes long-term average annual extraction limits for the EMUs.
- (2) The long-term average annual extraction limit for each of the EMUs is the sum of:
 - (a) the share components of all access licences in the extraction management unit, plus
 - (b) the annual water requirements pursuant to domestic and stock rights and native title rights in the extraction management unit.

Note. Under section 8F of the Act the long-term average annual extraction limit is taken to be varied by the amount of any change to the amount of water committed as licensed environmental water, excluding water committed under section 8C of the Act. Water committed as licensed environmental water is not to be accounted for as extraction. The variation in the long-term average annual extraction limit is to be determined in accordance with a methodology approved by the Minister and published in the Gazette.

29 Calculation of current levels of annual extraction

After each water year, the total volume of water taken during that water year:

- (a) under all categories of access licences, and
 - (b) pursuant to domestic and stock rights and native title rights,
- must be calculated for each of the EMUs.

30 Assessment of average annual extraction against long-term average annual extraction limits

- (1) An assessment of average annual extractions against the long-term annual extraction limit is to be conducted for each of the EMUs as set out in this clause.
- (2) Commencing in the fourth water year in which this Plan has effect, the assessment referred to in subclause (1) must compare the long-term average annual extraction

limit established under clause 28 for each of the EMUs against the average of the annual extractions in the preceding three water years as calculated under clause 29 for the extraction management unit.

31 Compliance with the long-term average annual extraction limits for the EMUs

- (1) Compliance with the long-term average annual extraction limit established for each of the EMUs is to be managed in accordance with this clause.
- (2) Commencing in the fourth water year in which this Plan has effect, if, in the Minister's opinion, the assessments under clause 30 demonstrate that the average of the annual extractions in any extraction management unit over the preceding three water years has exceeded the long-term average extraction limit established under clause 28 for that extraction management unit by 5% or more, then available water determinations for unregulated river access licences and aquifer access licences in that extraction management unit is to be reduced for 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 the long-term average annual extractions in the respective extraction management unit to the long-term average annual extraction limit for that extraction management unit established under this Part.

Division 2 Available water determinations

32 General

- (1) Available water determinations for access licences with share components that specify any one of these water sources are to be expressed as either:
 - (a) a percentage of the share component for access licences where share components are specified as ML/year, or
 - (b) megalitres per unit share for all 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 is determined under Division 1 of this Part, for all access licences where share
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components are specified ML/year, or

- (b) 1 megalitre (*ML*) per unit share of the access licence share component, or such lower amount that is determined under 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 one of these water sources.

33 Available water determinations for domestic and stock access licences

- (1) In making available water determinations for domestic and stock access licences, the Minister should consider the rules in this clause.
- (2) At the commencement of this Plan, an available water determination of 200% of the access licence share component should be made for domestic and stock access licences with a share component that specifies one of these water sources.
- (3) At the commencement of each water year after the first water year in which this Plan has effect, an available water determination of 100% of the access licence share component should be made for domestic and stock access licences with a share component that specifies one of these water sources.

34 Available water determinations for local water utility access licences

- (1) In making available water determinations for local water utility access licences, the Minister should consider the rules in this clause.
- (2) At the commencement of this Plan, an available water determination of 200% of the access licence share component should be made for local water utility access licences with a share component that specifies one of these water sources.
- (3) At the commencement of each water year after the first water year in which this Plan has effect, an available water determination of 100% of the access licence share component should be made for local water utility access licences with a share component that specifies one of these water sources.

35 Available water determinations for unregulated river access licences

- (1) In making available water determinations for unregulated river access licences, the Minister should consider the rules in this clause.
 - (2) At the commencement of this Plan, an available water determination of 2 ML per unit of share component should be made for unregulated river access licences with a share
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component that specifies one of these water sources.

- (3) At the commencement of each water year after the first water year in which this Plan has effect, an available water determination of 1 ML per unit of share component, or such lower amount that is determined under Division 1 of this Part, should be made for unregulated river access licences with a share component that specifies one of these water sources.

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 that EMU has been assessed to have been exceeded, as per clauses 30 and 31.

36 Available water determinations for aquifer access licences

- (1) In making available water determinations for aquifer access licences, the Minister should consider the rules in this clause.
- (2) At the commencement of this Plan, an available water determination of 2 ML per unit of share component should be made for aquifer access licences with a share component that specifies one of these water sources.
- (3) At the commencement of each water year after the first water year in which this Plan has effect, an available water determination of 1 ML per unit of share component, or such lower amount that is determined under Division 1 of this Part, should be made for aquifer access licences with a share component that specifies one of these water sources.

Note. Division 1 of this Part provides for available water determinations for aquifer access licences to be reduced where the long-term average annual extraction limit for that EMU has been assessed to have been exceeded, as per clauses 30 and 31.

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.

37 Specific purpose access licences

Note. Section 61 of the Act allows for the granting of specific purpose access licences under the regulations and the relevant water sharing plan. Only those specific purpose access licences listed in clause 10 of the *Water Management (General) Regulation 2011* can be granted under the regulations. The licences that may be applied for under subclause (2) are in addition to applications for the categories and subcategories of specific purpose access licences that may be made in accordance with clause 10 of the *Water Management (General) Regulation 2011*.

- (1) 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.
- (2) Applications may be made for an unregulated river (subcategory “Aboriginal community development”) access licence in any of the following water sources:
 - (a) Bettowynd and Moodong Creeks Water Source,
 - (b) Burra Creek Water Source,
 - (c) Deua River Water Source,
 - (d) Mogendoura Creek Water Source,
 - (e) Upper Deua River Water Source,
 - (f) Wamban Creek Water Source.

Notes. The Regulation will provide for the creation of new access licences that authorise the taking of water between the defined tidal limit and the mangrove limit in the water sources listed in subclause (2) (for which no entitlement has previously been required under the *Water Act 1912*).

- (3) An unregulated river (subcategory “Aboriginal community development”) access licence will not be granted in these water sources if the granting of the access licence would cause the total of the share components of unregulated river (subcategory “Aboriginal community development”) access licences, to exceed 100 ML in all the water sources listed in subclause (2).

Note. An unregulated river (subcategory “Aboriginal community development”) access licence is a specific purpose access licence and as such can only be the subject of limited trade that is

consistent with the purpose for which the licence was granted. Aboriginal communities, enterprises and individuals are encouraged to seek financial assistance from funding bodies to purchase other categories of access licence if they require fully tradable licences.

- (4) Applications may not be made for an access licence of the subcategory “Aboriginal cultural” if the share component of the proposed access licence is more than 10 ML/yr.
- (5) An access licence of the subcategory “Aboriginal cultural” may only be granted for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

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

38 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 in a manner prescribed by an order made under section 65 of the Act.

Part 8 Rules for managing access licences

Notes.

- 1 Part 12 of this Plan allows for amendments to be made to this Part.
- 2 The Act provides for the keeping of water allocation accounts for access licences. The rules in this Part impose further restrictions on the 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. It is an offence under the Act to take water under an access licence for which there is no or insufficient water allocation.

Division 1 Water allocation account management rules

39 Individual access licence account management rules for these water sources

- (1) The rules in this clause apply to the taking of water under an access licence with a share component that specifies one of these water sources.
- (2) For the period of the first three water years in which this Plan has effect, water taken under an 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 three water years, plus
 - (d) any water allocations recredited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years.
- (3) For the period of any three consecutive water years after the first water year in which this Plan has effect, water taken under an access licence must not exceed a volume equal to the lesser of:
 - (a) the sum of:
 - (i) water allocations accrued to the water allocation account for the access licence from available water determinations in those three water years, and

- (ii) the water allocations carried over in the water allocation account for the access licence from the water year prior to those three water years under subclause (4), and
 - (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 recredited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years, or
- (b) the sum of:
 - (i) the share component of the access licence at the beginning of the first of those three water years, and
 - (ii) the share component of the access licence at the beginning of the second of those three water years, and
 - (iii) the share component of the access licence at the beginning of the third of those three water years, and
 - (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 recredited to the water allocation account for the access licence in accordance with section 76 of the Act in those three water years.
- (4) The maximum water allocation that can be carried over from one water year to the next in the water allocation account for an access licence 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.

Division 2 Flow classes and daily access rules

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 Flow classes

- (1) This Plan establishes the flow classes specified in Column 2 of Table B to this clause for the sharing of flows on a daily basis in these water sources.
- (2) The flow classes in Column 2 of Table B and the flow reference points specified in Column 5 of Table B are established for each water source specified in Column 1 of Table B.
- (3) Subject to subclause (4), a flow class applies in the respective water source on the day specified in Column 6 of Table B when the flow (ML/day) as measured at the flow reference point specified in Column 5 of Table B is equal to the flow specified in Column 4 of Table B.
- (4) If, in the Minister's opinion, accurate flow data is not available on any day from a flow measuring gauge used to determine a flow class, the Minister may determine the flow class that applies for that day and notify the licence holder in writing of the flow class that applies for that day. For the purpose of this subclause, notification includes publishing a notice on the Department's website.
- (5) For the purpose of determining the flow class that applies on a particular day under subclause (4), the Minister may take into consideration evidence of past and current flows and readings at other functioning upstream and downstream gauges.

Note. On days that accurate flow data is not available, holders of access licences may contact the Department's Bega, Nowra or Wollongong office at the addresses listed in Appendix 4 or check the Department's website to find out what flow class applies on that day.
- (6) The flow classes commence in the year specified in Column 3 of Table B.
- (7) For the purposes of this Plan:
 - (a) *Year 1 of this Plan* means from 1 June 2016 to 30 June 2017,
 - (b) *Year 3 of this Plan* means from 1 July 2018 to 30 June 2019, and
 - (c) *Year 6 of this Plan* means from 1 July 2021 to 30 June 2022.

Note. Only those water sources for which flow classes have been established are shown in Table B.

Table B – Flow Classes

Column 1 Water Source	Column 2 Flow class	Column 3 Commencement date for flow class	Column 4 Flow (ML/ per day)	Column 5 Flow reference point	Column 6 Day on which flow class applies
Bettowynd and Moodong Creeks Water Source, Burra Creek Water Source, Deua River Water Source, Mogendoura Creek Water Source, Upper Deua River Water Source and Wamban Creek Water Source	Very Low Flow Class	Year 1 of the Plan	Less than or equal to 1 ML/day	Deua River at Riverview gauge (217007)	Same day
		Year 6 of the Plan	Less than or equal to 5 ML/day		Same day
	A Class	Year 1 of the Plan	More than 1 ML/day and less than or equal to 40 ML/day		Same day
		Year 6 of the Plan	More than 5 ML/day and less than or equal to 40 ML/day		
	B Class	Year 1 of the Plan	More than 40 ML/day and less than or equal to 160 ML/day		Same day
	C Class	Year 1 of the Plan	More than 160 ML/day		Same day
Araluen Creek Water Source	Very Low Flow Class	Year 3 of the Plan	No visible flow	Araluen Creek - the point of outflow from the instream pool immediately downstream of the Neringla Road bridge, Lot 5, DP 1099300	Same day
	A Class	Year 3 of the Plan	Visible flow		Same day

Notes.

The flow percentiles below refer to flows at the gauge and include all days of record.

- 1 The Deua River at Riverview gauge (217007) has replaced the Deua River at Wamban gauge (217002). As a result, flow percentile information is from the Wamban gauge as there is limited flow information from the new gauge.
- 2 For the Deua River at Wamban gauge (217002):
 - (i) 1 ML/day corresponds to the estimated 98th percentile flow,
 - (ii) 5 ML/day corresponds to the estimated 95th percentile flow,
 - (iii) 40 ML/day corresponds to the estimated 80th percentile flow, and

- (iv) 160 ML/day corresponds to the estimated 50th percentile flow.

42 Access rules for the taking of surface water

- (1) This clause applies to the taking of water under an access licence from these water sources, excluding the taking of water under an access licence:
- (a) used in association with an aquifer interference activity that is an approved EP&A Act development when:
- (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause, and
- (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved in accordance with the development consent for the activity under the *Environmental Planning and Assessment Act 1979*, and
- (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause, or
- (b) used in association with an aquifer interference activity when:
- (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause, and
- (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved by the Minister, and
- (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause,
- (c) from these alluvial sediments.

Note. Approved EP&A Act development is defined in the Dictionary.

- (2) Subject to subclause (12), water must not be taken under an access licence with a share component that specifies a water source or an extraction component that specifies a management zone with a Very Low Flow Class that has commenced, when flows in that water source or management zone are in the Very Low Flow Class. This

subclause does not apply to the taking of water from an off-river pool.

Note. *Off-river pool* is defined in the Dictionary.

- (3) Subject to subclause (12), water must not be taken under an access licence when there is no visible flow at the location at which water is proposed to be taken. This subclause does not apply to the taking of water from an in-river pool or an off-river pool.

Note. *In-river pool* and *visible flow* are defined in the Dictionary.

- (4) Water must not be taken under an access licence specified in Column 1 of the table in Schedule 1, with a share component that specifies the water source in Column 2 of the table in Schedule 1, in contradiction of the access rules specified in Column 3 of the table in Schedule 1.

Note. Those former *Water Act 1912* entitlements and the cease to take conditions that have been identified as being higher than the upper limit of the relevant Very Low Flow Class or the access rules specified in subclauses (2), (3), (7) and (8) are listed in Schedule 1.

- (5) The cease to take condition that arises from subclause (4) only applies to water supply works that were nominated by the access licence at the commencement of this Plan.

Note. *Cease to take condition* is defined in the Dictionary.

- (6) The cease to take condition that arises from subclause (4) will apply to a water supply work nominated by an access licence that is granted as a result of a subdivision of the original access licence under section 71P (1) (a) of the Act, if that water supply work was nominated by the original access licence at the commencement of this Plan. For the purposes of this subclause, the original access licence will include the replacement access licence arising from the *Water Act 1912* entitlement together with any subsequent access licences that may arise from future subdivisions of those licences.

Note. *Water Act 1912 entitlement* is defined in the Dictionary.

- (7) Subject to subclause (12), water must not be taken under an access licence from an off-river pool when the volume of water in that pool is less than the full capacity of the pool.

Note. *Full capacity* is defined in the Dictionary.

- (8) Subject to subclause (12), in water sources where flow classes have not commenced, water must not be taken under an access licence from an in-river pool when the volume of water in that pool is less than the full capacity of the pool.

- (9) Water must not be taken under an unregulated river (subcategory “Aboriginal community development”) access licence with a share component that specifies one of
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the following water sources when flows in that water source are in the Very Low Flow Class, A Class or B Class:

- (a) Bettowind and Moodong Creeks Water Source,
 - (b) Burra Creek Water Source,
 - (c) Deua River Water Source,
 - (d) Mogendoura Creek Water Source,
 - (e) Upper Deua River Water Source,
 - (f) Wamban Creek Water Source.
- (10) Water must not be taken under an access licence from:

- (a) an in-river dam pool, or
- (b) a runoff harvesting dam pool

created by a structure authorised by a water supply work approval, when flows or storage levels in that pool are at or less than the cease to take condition that was specified on the Water Act 1912 entitlement that the access licence replaces.

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

- (11) Water must not be taken from an in-river dam pool unless the in-river dam is:
- (a) constructed, operated and maintained in accordance with any conditions specified on the water supply work approval for the in-river dam, and
 - (b) passing such flows in such circumstances as are specified on the water supply work approval for the in-river dam.

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

- (12) Subclauses (2), (3), (7) and (8) do not apply to the following:

- (a) the taking of water under an access licence or an access licence which replaces a Water Act 1912 entitlement to which clause 1 of Schedule 2 applies, for any of the purposes listed below, provided that the volume of water taken does not exceed 20 kilolitres per day per access licence or such lower amount specified in accordance with subclause (13):
 - (i) fruit washing,
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene,

- (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (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 three years of this Plan, provided that the volume of water taken does not exceed 14 litres per hectare of grazeable area per day,
Note. *Grazeable area* is defined in the Dictionary.
 - (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 2 applies,
 - (f) the taking of water under an access licence to which Schedule 1 applies.
- (13) The Minister may reduce the maximum daily volume limit imposed by the rule under subclause (12) (a) if the Minister is satisfied that the reduced volume is satisfactory to meet the relevant purpose referred to in that subclause.

Note. The method by which the Minister can reduce the maximum daily volume limit is by amending the mandatory conditions of the relevant water supply work approval. 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 Access rules for the taking of groundwater

- (1) The rules in this clause apply to the taking of water under an access licence from these alluvial sediments. This clause does not apply to the taking of water:
- (a) using a water supply work that is located more than 40 metres from the top of the high bank of a river, or
 - (b) under an access licence used only to account for the taking of water in

association with an aquifer interference activity for an approved EP&A Act development when:

- (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause, and
 - (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved in accordance with the development consent for the activity under the *Environmental Planning and Assessment Act 1979*, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause, or
- (c) under an access licence used only to account for the taking of water in association with an aquifer interference activity when:
- (i) in the Minister's opinion, there are no reasonably practicable measures the access licence holder can take to comply with the access rules under this clause, and
 - (ii) the access licence holder has a water management plan for the aquifer interference activity that has been approved by the Minister, and
 - (iii) the water management plan includes conditions that require the return of water to the water source to mitigate the taking of water during times when the access rules apply under this clause.
- (2) Subject to subclause (6), water must not be taken under the following access licences with a share component that specifies a water source with a Very Low Flow Class that has commenced, when flows in that water source are in the Very Low Flow Class:
- (a) an aquifer access licence that has arisen from a conversion from an unregulated river access licence,
 - (b) an access licence, other than an aquifer access licence, that nominates a water supply work that is capable of being used to take water from these alluvial sediments.
- (3) Subject to subclause (6), water must not be taken under the following access licences
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when there is no visible flow in the river immediately adjacent to the water supply work from which the water is proposed to be taken:

- (a) an aquifer access licence that has arisen from a conversion from an unregulated river access licence,
 - (b) an access licence, other than an aquifer access licence, that nominates a water supply work that is capable of being used to take water from these alluvial sediments.
- (4) Subject to subclause (6), from Year 6 of this Plan water must not be taken under an access licence with a share component that specifies a water source with a Very Low Flow Class that has commenced, when flows in that water source are in the Very Low Flow Class. This subclause does not apply to:
- (a) an aquifer access licence that has arisen from a conversion from an unregulated access licence, or
 - (b) an access licence, other than an aquifer access licence, that nominates a water supply work that is capable of being used to take water from these alluvial sediments.

Note. *Year 6 of this Plan* is defined in the Dictionary.

- (5) Subject to subclause (6), from Year 6 of this Plan water must not be taken under an access licence when there is no visible flow in the river immediately adjacent to the water supply work from which the water is proposed to be taken. This subclause does not apply to:
- (a) an aquifer access licence that has arisen from a conversion from an unregulated access licence, or
 - (b) an access licence, other than an aquifer access licence, that nominates a water supply work that is capable of being used to take water from these alluvial sediments.
- (6) Subclauses (2)–(5) do not apply to the following:
- (a) the taking of water under an access licence to which clause 1 of Schedule 3 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 on the access licence in accordance with subclause (7):

- (i) fruit washing,
 - (ii) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (iii) poultry watering and misting,
 - (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 under a local water utility access licence or an access licence of the subcategory “Town water supply” to which clause 2 of Schedule 3 applies.
- (7) The Minister may amend a water supply work approval to reduce the maximum daily volume limit imposed by the rule under subclause (6) (a) if the Minister is satisfied that the reduced volume is satisfactory to meet the relevant purpose referred to in that subclause.

44 Total daily extraction limits

- (1) For the purposes of subclauses (2) and (3), **F** is the daily stream flow as measured at the Deua River at Riverview gauge (217007).
- (2) From years 1 to 6 of this Plan, this Plan establishes total daily extraction limits (**TDELs**) in the Burra Creek Water Source and the Deua River downstream of Coopers Creek Management Zone in the Deua River Water Source as follows:
- (a) in A Class, TDELs are equal to:
 - (i) for local water utility access licences, the lesser of:
 - (A) $0.8 \times (F - 1)$ ML/day, or
 - (B) 16 ML/day,
 - (ii) for unregulated river access licences, $0.2 \times (F - 1)$ ML/day,
 - (b) in B Class, the TDEL for local water utility access licences is equal to $16 + (F - 40)$ ML/day.

Note. For example in A Class, from years 1 to 6 of this Plan, when the daily stream flow at the Deua River at Riverview gauge (217007) is 11 ML/day, a local water utility would have a TDEL equal to 8 ML/day.

- (3) From year 6 of this Plan, this Plan establishes TDELs in the Burra Creek Water Source and the Deua River downstream of Coopers Creek Management Zone in the Deua River Water Source as follows:
- (a) in A Class, TDELs are equal to:
- (i) for local water utility access licences, the lesser of:
- (A) $0.8 \times (F - 5)$ ML/day, or
- (B) 16 ML/day,
- (ii) for unregulated river access licences, $0.2 \times (F - 5)$ ML/day,
- (b) in B Class, the TDEL for local water utility access licences is equal to $16 + (F - 40)$ ML/day.

Notes.

- 1 The peak daily demand for unregulated river access licences in the Deua River and Burra Creek Water Sources is estimated to be 3.9 ML/day.
- 2 TDELs are an assessment tool only and will be used by the Department to determine which access licences (if any) may require individual daily extraction limits. Where TDELs have been established, continued exceedance of a TDEL may result in the imposition of individual daily extraction limits under clause 45.
- 3 **Total daily extraction limit** is defined in the Dictionary.

45 Individual daily extraction limits

- (1) At the commencement of this Plan, there are no individual daily extraction limits (**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 44 indicates that extraction under the access licences exceeds the TDEL, the Minister may amend the extraction component of an access licence under section 68A of the Act to impose an IDEL on any one or more of those access licences.

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

Part 9 Rules for water supply work approvals

Notes.

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

Division 1 Rules applying to the granting or amending of water supply work approvals for water supply works that take surface water

46 General

The rules in this Division apply to water supply work approvals for water supply works authorised to take water:

- (a) occurring naturally on the surface of the ground within the boundaries of these water sources shown on the Plan Map, and
- (b) in rivers, lakes, estuaries and wetlands within the boundaries of these water sources shown on the Plan Map.

47 Granting or amending water supply works approvals

- (1) A water supply work must not be granted or amended to authorise an in-river dam on a third order or higher stream within the following water sources:

- (a) Bettowynd and Moodong Creeks Water Source,
- (b) Deua River Water Source,
- (c) Moruya River Water Source,
- (d) Upper Deua River Water Source.

Note. Water supply work approvals may be granted or amended for in-river dams on third order or higher streams within all water sources and management zones to which this Plan applies, other than those specified in subclause (1), consistent with the NSW Weirs Policy, the principles of the Act, the *Fisheries Management Act 1994* and any other relevant legislation.

- (2) 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, or
- (b) the surrender under section 77 of the Act of an access licence and then the subsequent cancellation of that access licence under section 77A (6) of the Act,
or

- (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 of the dam to ensure that the capability of the dam to capture water is reduced to reflect that reduction in share component.

Note. The Minister can require the modification of the dam by amending the mandatory conditions of the relevant water supply work approval. 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.

Division 2 Rules applying to the granting and amending of water supply work approvals for water supply works that take groundwater

48 General

- (1) The rules in this Division apply to water supply approvals for water supply works that are authorised to take water from these alluvial sediments.
- (2) In this Division, a reference to a water supply work is limited to a water supply work that is authorised to take water from these alluvial sediments.

49 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 or is proposed to be located within:
 - (a) 100 metres of a water supply work located on another landholding that is authorised to take water from these water sources and is nominated by another access licence, or
 - (b) 100 metres of a water supply work located on another landholding that is authorised to take water from these water sources pursuant to basic landholder rights only, or
 - (c) 50 metres from the boundary of the landholding on which the water supply work is located, unless the owner of the landholding adjoining the boundary has provided consent in writing, or
 - (d) 500 metres of a water supply work that is authorised to take water from these

- water sources and is nominated by a local water utility access licence or a major utility access licence, unless the licence holder has provided consent in writing, or
- (e) 100 metres of a Department 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, or
 - (b) the water supply work is a replacement groundwater work, or
 - (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 at a lesser distance 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 require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance will result in no more than minimal impact on existing extraction from these water sources.
- (4) The Minister may require the modification of a water supply work authorised under subclause (2) (d) to minimise the impact of the water supply work on existing water levels or extraction if the Minister is satisfied at a later time that the location of the water supply work is causing more than minimal impact on existing water levels or extraction.

50 Rules for water supply work approvals 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 or is proposed to be located:
- (a) within 250 metres of the plume associated with a contamination source listed in Schedule 4, or
 - (b) between 250 metres and 500 metres from the plume associated with the contamination source listed in Schedule 4, unless the Minister is satisfied that no drawdown of water will occur within 250 metres of that plume.

Note. *Drawdown* is defined in the Dictionary.

- (2) In addition to subclause (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 or is proposed to be located at a distance from a plume associated with a contamination source listed in Schedule 4 that is likely to be insufficient to protect the water source or public health and safety.
- (3) 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, the environment and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring, environmental management or remedial works.
- (4) For the purpose of subclause (3) (a), the Minister may require the applicant to submit a hydrogeological study 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 the water source, the environment and public health and safety.

51 Rules for water supply work approvals located near groundwater-dependent ecosystems

- (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 or is proposed to be located within:
 - (a) in the case of a water supply work that will be authorised to take water pursuant to basic landholder rights only — 100 metres of a high priority groundwater-dependent ecosystem listed in Schedule 5, or
 - (b) in the case of a water supply work that will be nominated by an access licence — 200 metres of a high priority groundwater-dependent ecosystem listed in Schedule 5, or
 - (c) 40 metres of the top of the high bank of a river.
 - (2) In addition to subclause (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 or is proposed to be located at a distance from a high priority groundwater-dependent ecosystem listed in Schedule 5 if the construction and use of the water
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supply work at that distance is likely to cause more than minimal drawdown of that high priority groundwater-dependent ecosystem. This subclause does not apply to water supply works that will be authorised to take water pursuant to basic landholder rights only.

- (3) The distance restrictions specified in subclauses (1) (a) and (b) do not apply to the grant 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 5.
- (4) 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 for the purpose of monitoring, environmental management or remedial works, or
 - (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, or
 - (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.
- (5) The Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that:
 - (a) for the purpose of subclause (3), no more than minimal drawdown of water will occur at the perimeter of any high priority groundwater-dependent ecosystem listed in Schedule 5, or
 - (b) for the purpose of subclause (4) (d), the location of the water supply work at a lesser distance will result in no greater impact on these groundwater sources and any groundwater-dependent ecosystems.

52 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 which, in the Minister's opinion, is or is proposed
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to be located within:

- (a) 100 metres of a groundwater-dependent culturally significant site, in the case of a water supply work that will be authorised to take water pursuant to basic landholder rights only, or
- (b) 200 metres of a groundwater-dependent culturally significant site, in the case of a water supply work that will be nominated by an access licence.

Note. Groundwater-dependent culturally significant sites are currently under investigation and may be identified during the term of this Plan. The full list of potential groundwater-dependent culturally significant sites will be identified on the Department-held 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.

- (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 for the purpose of monitoring, environmental management or remedial works, or
 - (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, or
 - (c) the water supply work is a replacement groundwater work, or
 - (d) the location of the water supply work at a lesser distance will result in no more than minimal impact on these water sources and any groundwater-dependent culturally significant sites.
- (3) For the purpose of subclause (2) (d), the Minister may require the applicant to submit a hydrogeological study to demonstrate to the Minister's satisfaction that the location of the water supply work at a lesser distance will result in no greater impact on these water sources and their groundwater-dependent culturally significant sites.

53 Replacement groundwater works

- (1) For the purposes 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 these alluvial sediments 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
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- 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, and
 - (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, and
 - (e) if the existing water supply work is located within 40 metres of the high bank of a river, the replacement groundwater work is to be located:
 - (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.
- (2) For the purpose of subclause (1) (c) (ii), the Minister may require the applicant to 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.

- (3) For the purpose of subclause (1) (d) (ii) or (e) (ii), the Minister may require the applicant to 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.

Note. 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.

Division 3 Rules for the use of water supply works used to take groundwater

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

- (1) The rules in this clause apply to water supply work approvals for water supply works that are authorised to take water from these alluvial sediments.
- (2) Subject to subclauses (3) and (4), a water supply work that is located within a restricted distance specified in clauses 49–52 must not, in any water year, be used to take more water than the volume of water that is equal to:
- (a) the sum of the share components of the access licences nominating that water supply work at the commencement of this Plan, plus
 - (b) the maximum water allocation that can be carried over by access licences nominating that water supply work at the commencement of the Plan in accordance with clause 39 (4) of this Plan.
- (3) Subject to subclause (4), a water supply work that becomes located within a restricted distance specified in clauses 49–52 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 equal to:
- (a) the sum of the share components of the access licences nominating that water supply work at the date of the amendment, plus
 - (b) the maximum water allocation that can be carried over by access licences nominating that water supply work at the date of the amendment in accordance with clause 39 (4) of this Plan.

- (4) Subclauses (2) and (3) do not apply:
 - (a) where a restricted distance does not apply in accordance with clauses 49 (2) (a), (c) and (d), 50 (3) , 51 (3), (4) (a), (b) and (d) and 52 (2) (a), (b) and (d), or
 - (b) to the taking of water pursuant to basic landholder rights.
- (5) The Minister may specify a daily rate or an annual volumetric limit for water taken by a water supply work that is located within a restricted distance specified in clauses 49–52 pursuant to clauses 49 (2) (d), 50 (3) (a), 51 (3) or (4) (d) or 52 (2) (d).
- (6) The daily rate or annual volumetric limit specified under subclause (5) will be as determined by the Minister to meet the relevant criteria specified in clauses 49 (2) (d), 50 (3) (a), 51 (3) or (4) (d) or 52 (2) (d).

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 under 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 a new category

- (1) Dealings under section 71O of the Act are prohibited in these water sources unless the conversion is from an unregulated river access licence to an aquifer access licence in one of the following water sources:
 - (a) Bettowynd and Moodong Creeks Water Source,
 - (b) Burra Creek Water Source,
 - (c) Deua River Water Source,
 - (d) Mogendoura Creek Water Source,
 - (e) Moruya River Water Source,
 - (f) Upper Deua River Water Source,
 - (g) Wamban Creek Water Source.
- (2) A dealing under subclause (1) is subject to the share component of the aquifer access licence being equal to the share component of the unregulated river access licence.

57 Assignment of rights dealings

- (1) Dealings under section 71Q of the Act within the same water source are prohibited if the dealing involves an assignment of rights from an access licence that nominates a water supply work located more than 40 metres from the top of a high bank of a river to an access licence that nominates a water supply work being used to take water from these alluvial sediments located less than or equal to 40 metres from the top of a high bank of a river.

- (2) Subclause (1) does not apply to a water supply work being used to take water from these alluvial sediments that is part of a bore network for a local water utility or town water supply scheme.
- (3) Dealings under section 71Q of the Act between water sources are prohibited in these water sources if the dealing involves an assignment of rights:
 - (a) to an access licence with a share component that specifies one of the following water sources:
 - (i) Araluen Creek Water Source,
 - (ii) Deua River Water Source,
 - (iii) Moruya River Water Source,
 - (b) to an access licence with a share component that specifies the Bettowynd and Moodong Creeks Water Source, if it would cause the sum of the share components of all access licences in the Bettowynd and Moodong Creeks Water Source to exceed 25,
 - (c) to an access licence with a share component that specifies the Burra Creek Water Source, if it would cause the sum of the share components of all access licences in the Burra Creek Water Source to exceed 106,
 - (d) to an access licence with a share component that specifies the Mogendoura Creek Water Source, if it would cause the sum of the share components of all access licences in the Mogendoura Creek Water Source to exceed 35,
 - (e) to an access licence with a share component that specifies the Upper Deua River Water Source, if it would cause the sum of the share components of all access licences in the Upper Deua River Water Source to exceed 130,
 - (f) to an access licence with a share component that specifies the Wamban Creek Water Source, if it would cause the sum of the share components of all access licences in the Wamban Creek Water Source to exceed 78.

58 Amendment of share components dealings (change of water source)

- (1) Dealings under section 71R of the Act are subject to the share component of the new access licence being equal to the share component of the cancelled access licence.
 - (2) Dealings under section 71R of the Act are prohibited if the dealing involves any of the following:
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- (a) the cancellation of an access licence with a share component specifying a water source in one EMU in order to grant an access licence with a share component specifying a water source in another EMU,
 - (b) the granting of an access licence with a share component specifying a water source in one EMU following the cancellation of an access licence with a share component specifying a water source in another EMU,
 - (c) the granting of a new access licence with a share component that specifies one of the following water sources:
 - (i) Araluen Creek Water Source,
 - (ii) Deua River Water Source,
 - (iii) Moruya River Water Source,
 - (d) the granting of a new access licence with a share component that specifies the Bettowynd and Moodong Creeks Water Source, if it would cause the sum of the share components of all access licences in the Bettowynd and Moodong Creeks Water Source to exceed 25,
 - (e) the granting of a new access licence with a share component that specifies the Burra Creek Water Source, if it would cause the sum of the share components of all access licences in the Burra Creek Water Source to exceed 106,
 - (f) the granting of a new access licence with a share component that specifies the Mogendoura Creek Water Source, if it would cause the sum of the share components of all access licences in the Mogendoura Creek Water Source to exceed 35,
 - (g) the granting of a new access licence with a share component that specifies the Upper Deua River Water Source, if it would cause the sum of the share components of all access licences in the Upper Deua River Water Source to exceed 130,
 - (h) the granting of a new access licence with a share component that specifies the Wamban Creek Water Source, if it would cause the sum of the share components of all access licences in the Wamban Creek Water Source to exceed 78.
- (3) The extraction component of a new access licence granted in accordance with a
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section 71R dealing will not carry over the extraction component from the cancelled access licence.

59 Assignment of water allocations dealings

- (1) Dealings under section 71T of the Act within the same water source are prohibited in these water sources if the dealing involves an assignment of water allocation from an access licence that nominates a water supply work located more than 40 metres from the top of a high bank of a river to an access licence that nominates a water supply work being used to take water from these alluvial sediments located less than or equal to 40 metres from the top of a high bank of a river.
- (2) Subclause (1) does not apply to a water supply work being used to take water from these alluvial sediments that is part of a bore network for a local water utility or town water supply scheme.
- (3) Dealings under section 71T of the Act between different water sources are prohibited in these water sources if the dealing involves an assignment of water allocation:
 - (a) from an access licence in one EMU to an access licence in another EMU, or
 - (b) to an access licence in one of the following water sources:
 - (i) Araluen Creek Water Source,
 - (ii) Deua River Water Source,
 - (iii) Moruya River Water Source, or
 - (c) to an access licence in the Bettowynd and Moodong Creeks Water Source, if it would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Bettowynd and Moodong Creeks Water Source from available water determinations or dealings under section 71T of the Act in that water year, to exceed 25, or
 - (d) to an access licence in the Burra Creek Water Source, if it would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Burra Creek Water Source from available water determinations or dealings under section 71T of the Act in that water year, to exceed 106, or
 - (e) to an access licence in the Mogendoura Creek Water Source, if it would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Mogendoura Creek Water Source from available water

determinations or dealings under section 71T of the Act in that water year, to exceed 35, or

- (f) to an access licence in the Upper Deua River Water Source, if it would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Upper Deua River Water Source from available water determinations or dealings under section 71T of the Act in that water year, to exceed 130, or
- (g) to an access licence in the Wamban Creek Water Source, if it would cause the sum of water allocations credited to the water allocation accounts of all access licences in the Wamban Creek Water Source from available water determinations or dealings under section 71T of the Act in that water year, to exceed 78.

60 Interstate access licence transfer and assignment of water allocation

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

61 Nomination of water supply work dealings

- (1) Dealings under section 71W of the Act are prohibited if the dealing involves:
 - (a) an access licence being amended to nominate a water supply work located in a different management zone to that specified in the extraction component of the access licence, or
 - (b) an access licence that nominates a water supply work located more than 40 metres from the top of a high bank of a river being amended to nominate a water supply work being used to take water from these alluvial sediments located less than or equal to 40 metres from the top of a high bank of a river.
- (2) Subclause (1) (b) does not apply to a water supply work being used to take water from these alluvial sediments that is part of a bore network for a local water utility or town water supply scheme.
- (3) Dealings under section 71W of this Act that involve the interstate nomination of water supply works by access licences in these water sources are prohibited.

- (4) Dealings under section 71W of the Act that involve the nomination of water supply works by interstate access licences are prohibited.

Part 11 Mandatory conditions

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

Division 1 General

62 General

In this Part:

- (a) a requirement to notify the Minister in writing is satisfied by writing to one of the addresses listed in Appendix 3 of this Plan or to the email address for the Department's Advisory Service, Water Regulation, and

Note. At the commencement of this Plan, the email address for the Department's Advisory Service, Water Regulation is water.enquiries@dpi.nsw.gov.au.

- (b) a *metered water supply work with a data logger* means a water supply work with
- (i) a meter that complies with Australian Standard *AS 4747, Meters for non-urban water supply*, as may be updated or replaced from time to time, and
- (ii) a data logger, and
- (c) if the holder of a water supply work approval is the same as the holder of the access licence under which water is proposed to be taken, then it is not necessary to maintain two separate Logbooks and all the required information can be kept in one Logbook.

Note. *Logbook* is defined in the Dictionary.

Division 2 Access licences

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

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 of Part 8 of this Plan,
- (b) the relevant access rules for the taking of water specified in Division 2 of Part 8 of this Plan,

- (c) the holder of the access licence upon becoming aware of a breach of any condition of the access licence must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm this notification in writing within seven days of becoming aware of the breach,
 - (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 must record the following in the Logbook:
 - (i) each date and start and end 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, unregulated river access licences and aquifer access licences with share components that specify one of these water sources, the volume of water taken in the first three water years of this Plan by comparison to the volume of water permitted to be taken in those years under clause 39 (2),
 - (vi) for domestic and stock access licences, local water utility access licences, unregulated river access licences and aquifer access licences with share components that specify one of these water sources, the volume of water taken in any three consecutive water years after the first water year of this Plan by comparison to the volume of water permitted to be taken in those years under clause 39 (3),
 - (vii) any other information required to be recorded in the Logbook under the rules of this Plan,
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- (c) the holder of the access licence must produce the Logbook to the Minister for inspection, when requested,
 - (d) the holder of the access licence must retain the information required to be recorded in the Logbook for five years from the date to which that information relates.
- (3) The Minister may require the holder of an access licence that nominates only a metered water supply work with a data logger to keep a Logbook in accordance with any requirements of subclause (2).
- (4) An access licence for an approved EP&A Act development must have mandatory conditions where required to give effect to the rules for the use of water supply works located within the 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) when directed by the Minister by notice in writing, the approval holder must have metering equipment installed that meets the following requirements:
 - (i) the metering equipment must accurately measure and record the flow of all water taken through the water supply work,
 - (ii) the metering equipment must comply with the Australian Standard *AS 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 out of the pipe, channel or conduit between the water source and the metering equipment,
 - (v) any other requirements as to type, standard or other criteria for the

metering equipment specified in the notice,

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

- (b) if a water supply work is to no longer be used permanently, then the approval holder of that work must provide the Minister with notice in writing that the approval holder intends to decommission the water supply work, at least 90 days prior to the date of commencement of decommissioning,
- (c) upon receiving notice of the intention to decommission from the approval holder under paragraph (b), the Minister may by notice in writing, require that the water supply work not be decommissioned, or that the water supply work be decommissioned in accordance with other requirements. These requirements may be specified by the Minister in a work plan,

Note. If a notice in writing is required from the Minister regarding the decommissioning of a water supply work, this notice will be sent to the approval holder within 60 days of the notice under paragraph (b) being sent.

- (d) if the approval holder receives a notice from the Minister under paragraph (c), the approval holder must proceed in accordance with any requirements in that notice,
- (e) if the approval holder does not receive a notice from the Minister under paragraph (c) within 60 days of providing notice of the intent to decommission under paragraph (b), the approval holder must decommission the water supply work,
- (f) within 60 days of the water supply work being decommissioned under paragraphs (d) or (e), the approval holder must notify the Minister in writing that the water supply work has been decommissioned,
- (g) the holder of the water supply work approval upon becoming aware of a breach of any condition of the approval must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm this notification in writing within seven days of becoming aware of the breach,,
- (h) any other conditions required to implement the provisions of this Plan.

- (2) Water supply work approvals for water supply works in these water sources,
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excluding a water supply work that is a metered water supply work with a data logger, must have mandatory conditions where required to give effect to the following:

- (a) the holder of a water supply work approval must keep a Logbook,
 - (b) the holder of a water supply work approval must record the following in the Logbook:
 - (i) each date and start and end time during which water was taken using the water supply work,
 - (ii) the volume of water taken on that date,
 - (iii) the number of the access licence under which water was taken on that date, or, if water was taken under some other authority (such as basic landholder rights), the authority under which water was taken,
 - (iv) the purpose or purposes for which the water was taken on that date,
 - (v) details of any cropping carried out using the water taken through the water supply work including the type of crop, area cropped and dates of planting and harvesting,
 - (vi) where metering equipment has been installed for use in connection with the water supply work, the meter reading before water is taken,
 - (vii) where metering equipment has not been installed for use in connection with the water supply work, details of all pumping activities for the water supply work including pump running hours, pump power usage or pump fuel usage, pump start and stop times and pump capacity per unit of time,
 - (viii) any other information required to be recorded in the Logbook under the rules of this Plan,
 - (c) the holder of the water supply work approval must produce the Logbook to the Minister for inspection when requested,
 - (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) The Minister may require the holder of a water supply work approval for a metered water supply work with a data logger to keep a Logbook in accordance with any requirements of subclause (2).
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- (4) 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 the relevant 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.
- (5) Water supply work approvals for runoff harvesting dams and in-river dams must have a mandatory condition where required to give effect to clause 47 (2).

65 Water supply works used to take water from these alluvial sediments

- (1) This clause applies to all water supply work approvals for water supply works that are authorised to take water from these water sources.
- (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 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 49–52, and
 - (ii) comply with the construction standards for that type of bore prescribed in the *Minimum Construction Requirements for Water Bores in Australia, 2012*, and
Note. *Minimum Construction Requirements for Water Bores in Australia* is defined in the Dictionary.
 - (iii) be constructed appropriately so as to prevent contamination between aquifers, and
 - (iv) be constructed to prevent the flow of saline water between aquifers as

directed by the Minister in writing,

(d) if a water supply work is to no longer be used permanently, then the approval holder of that work must provide the Minister with notice in writing that the approval holder intends to decommission the water supply work, at least 90 days prior to the date of commencement of decommissioning and include a work plan for decommissioning in accordance with the Minimum Construction Requirements for Water Bores in Australia,

(e) upon receiving notice of the intention to decommission from the approval holder under paragraph (d), the Minister may by notice in writing, require that the water supply work not be decommissioned, or that the water supply work be decommissioned in accordance with other requirements,

Note. If a notice in writing is required from the Minister regarding the decommissioning of a water supply work, this notice will be sent to the approval holder within 60 days of the notice under paragraph (d) being sent.

(f) if the approval holder receives a notice from the Minister under paragraph (e), the approval holder must proceed in accordance with any requirements in that notice,

(g) if the approval holder does not receive a notice from the Minister under paragraph (e) within 60 days of providing notice of the intent to decommission under paragraph (d), the approval holder must decommission the water supply work in accordance with the work plan,

(h) within 60 days of the water supply work being decommissioned under paragraphs (f) or (g), the approval holder must notify the Minister in writing that the water supply work has been decommissioned and provide the name of the driller who decommissioned the work,

(i) if, during the construction of the water supply work, contaminated water is encountered above the production aquifer, the approval holder must:

(i) notify the Minister within 48 hours of becoming aware of the contaminated water, and

(ii) take all reasonable steps to minimise contamination and environmental harm, and

(iii) ensure that such water is sealed off by inserting casing to a depth sufficient to exclude the contaminated water from the water supply work

- and, if specified by the Minister, place an impermeable seal between the casing 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,
 - (j) 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,
 - (k) 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,
 - (l) any other conditions required to implement the provisions of this Plan.
- (3) A water supply work approval granted in circumstances where clause 49 (2) (d) applies must have a mandatory condition where required to give effect to clause 49 (4).
- (4) A water supply work approval for a water supply 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 53.

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) An amendment authorised by this Plan is taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.
Note. For example, if Part 1 is amended to add a new management zone, this may require amendments 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 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,
Note. *Management zone* is defined in the Dictionary.
- (c) add, remove or modify an EMU, including the water sources to which an extraction management unit applies,
- (d) amend the Plan Map.

68 Part 6

Following the surrender under section 77 of the Act of an access licence and then the cancellation under section 77A (6) of the Act of an access licence in one of these water sources, the Minister may amend clause 28 to vary the long-term average annual extraction limit that applies to that EMU.

69 Part 7

Part 7 may be amended to establish or revise a limit for the granting of an access licence of the subcategory “Aboriginal community development” in these water sources.

70 Part 8

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

- (a) establish new or additional flow classes in these water sources, taking into account:
 - (i) any new information, assessed as adequate by the Minister, about the level of hydrological stress in these water sources,
 - (ii) the socio-economic impacts of the proposed change, and
 - (iii) the environmental water requirements of these water sources,provided, that the Minister consult with relevant Government agencies and stakeholders before making an amendment pursuant to this paragraph,
- (b) amend the Very Low Flow Class for the Araluen Creek Water Source established in Table B clause 41 to be 0 ML/day at the Araluen Creek at Neringla Road gauge (217006),
- (c) amend the Very Low Flow Class for the Araluen Creek Water Source in Table B clause 41 if an alternative gauge site for Araluen Creek is established, provided that the upper limit of the Very Low Flow Class is at or below the 95th percentile stream flow in Araluen Creek (where days of zero flow have not been included in percentile stream flow calculations),
- (d) amend clause 41 to alter the flow classes with a flow reference point at the Deua River at Riverview gauge (217007) such that the upper limit of the Very Low Flow Class and the lower limit of A Class established for Year 6 of this Plan approximate the 95th percentile, should future flow data from the Deua River at Riverview gauge indicate that the 95th percentile is significantly different from 5 ML/day,
- (e) amend clause 42 to extend the exemption to the cease to take conditions for stock watering purposes specified in clause 42 (12) (c) beyond year 3 of this Plan and/or modify the volume of water permitted to be taken for stock

watering purposes after year 3 of this Plan,

- (f) amend clause 43 to require access licences that nominate a water supply work located more than 40 metres from the top of the high bank of a river and that may be used to take water from these alluvial sediments, to be subject to the same access rules as unregulated river access licences, for the corresponding water source specified in clause 42 of this Plan, but with a delay,
- (g) establish or assign new 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,
- (h) establish or assign new TDELs in these water sources or management zones to protect a proportion of flow within each flow class for the environment,
- (i) amend or remove TDELs if TDELs have been established or assigned,
- (j) include rules for the establishment, assignment and removal of IDELs,
- (k) remove the existing access rules where TDELs and/or IDELs have been established under paragraph (h) or (j) to protect a proportion of flow within each flow class for the environment,
- (l) reinstate access rules that applied at the commencement of this Plan, where TDELs and IDELs have been removed under paragraphs (i) and (j).

71 Part 9

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

- (a) amend clause 47 to add or remove water sources or management zones where water supply work approvals must not be granted or amended to authorise in-river dams on third order or higher streams,
- (b) add, remove or modify a restricted distance specified in:
 - (i) clause 49 after year 5 of this Plan, or
 - (ii) clause 51 based on the outcomes of further studies of groundwater-dependent ecosystems that are to the Minister's satisfaction,
- (c) amend the definition of a replacement groundwater work in clause 53,
- (d) amend clause 54 to impose further restrictions on the rate and timing of

extraction of water to mitigate impacts.

72 Part 11

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

- (a) amend the rules in relation to record keeping including in relation to requirements for Logbooks,
- (b) amend clause 64 or 65 to specify different standards or requirements for decommissioning water supply works or construction requirements for water supply works.

73 Dictionary

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

74 Schedules

- (1) Schedule 1 may be amended to:
 - (a) remove an access licence or Water Act 1912 entitlement specified in Column 1 and the corresponding water source and access rule in Column 2 and Column 3 of the Schedule,
 - (b) add a new access licence to Column 1 and specify a water source and access rule in Column 2 and Column 3 of the Schedule, if, in the Minister's opinion:
 - (i) the cease to take conditions that were specified on the Water Act 1912 entitlement were higher than the access rules specified in clause 41, and
 - (ii) the access rule to be specified in Column 3 for that access licence is no more restrictive than the cease to take conditions that were specified on the Water Act 1912 entitlement.
- (2) Schedule 2 may be amended to do any of the following:
 - (a) add a new access licence to clause 1 of Schedule 2, provided that a written request has been made to the Minister and the Minister is satisfied that extraction under the access licence is for a purpose listed in clause 42 (12) (a) and that the purpose was specified on, or referred to in the conditions of, the Water Act 1912 entitlement that was replaced by the access licence,
 - (b) add a local water utility access licence or an access licence of the subcategory "Town water supply" to clause 2 of Schedule 2, provided the Minister is

- satisfied that the water supply system used to take, store and deliver water has not undergone major augmentation since the commencement of this Plan,
- (c) remove an access licence or Water Act 1912 entitlement from clause 1 of Schedule 2 if:
 - (i) an access licence dealing results in water being taken under the licence from a different location, or
 - (ii) an alternative water supply is obtained, or
 - (iii) the access licence is surrendered or cancelled,
 - (d) remove a local water utility access licence, an access licence of the subcategory “Town water supply” or a Water Act 1912 entitlement from clause 2 of Schedule 2 if:
 - (i) the Minister is satisfied that the water supply system used to take, store and deliver water has undergone major augmentation since the commencement of this Plan, or
 - (ii) the access licence is surrendered or cancelled or the purpose ceases to exist.
- (3) Schedule 2 or part thereof may be deleted if the Minister is satisfied that it is no longer required.
- (4) Schedule 3 may be amended to do any of the following:
- (a) add a new access licence to clause 1 of Schedule 3, provided that a written request has been made to the Minister and the Minister is satisfied that extraction under the access licences is for a purpose listed in clause 43 (6) (a) and that the purpose was specified on, or referred to in the conditions of the Water Act 1912 entitlement that was replaced by the access licence,
 - (b) add a local water utility access licence or an access licence of the subcategory “Town water supply” to clause 2 of Schedule 3, 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 a local water utility access licence, an access licence of the subcategory “Town water supply” or a Water Act 1912 entitlement from clause 2 of Schedule 3 if:
-

- (i) the Minister is satisfied that the water supply system used to take, store and deliver water has undergone major augmentation since the commencement of this Plan, or
 - (ii) the access licence is surrendered or cancelled or the purpose ceases to exist,
- (d) remove an access licence or a Water Act 1912 entitlement from clause 1 of Schedule 3 if:
 - (i) an access licence dealing results in the water being taken under the access licence from a different location, or
 - (ii) an alternative water supply is obtained, or
 - (iii) the access licence is surrendered or cancelled or the purpose ceases to exist.
- (5) Schedule 3 or part thereof may be deleted if the Minister is satisfied that it is no longer required.
- (6) Schedule 4 may be amended to add or remove a contamination source.
- (7) Schedule 5 may be amended to add or remove:
 - (a) a high priority groundwater-dependent ecosystem, or
 - (b) a high priority karst environment groundwater-dependent ecosystem.

75 Other

- (1) This Plan may be amended to include rules for the following:
 - (a) managed aquifer recharge,
 - 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,
 - Note. *Shepherding*** is defined in the Dictionary.
 - (d) any new category of access licence established for the purpose of urban stormwater harvesting,

- (e) the interception of water before it reaches a stream or aquifer by plantations or other means,
 - (f) the management of salt interception schemes,
 - (g) the management of aquifer interference activities, including the granting of aquifer interference approvals.
- (2) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.
- (3) This Plan may be amended following the granting of a native title claim pursuant to the provisions of the *Native Title Act 1993* of the Commonwealth to give effect to an entitlement granted under that claim.
- (4) This Plan may be amended after year five to provide rules for the protection of water-dependent Aboriginal cultural assets to do any of the following:
- (a) identify water-dependent Aboriginal cultural assets,
 - (b) amend the access rules to protect water-dependent Aboriginal cultural assets,
 - (c) restrict the granting and amendment of water supply works to protect water-dependent Aboriginal cultural assets,
 - (d) amend the dealing rules to protect water-dependent Aboriginal cultural assets.
- (5) Any amendment under subclause (4) will take into account the socio-economic impacts of the proposed change and the environmental water requirements of the water source.
- (6) Before making an amendment pursuant to subclause (4) the Minister should consult with relevant Government agencies and stakeholders.

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.

Aboriginal person has the same meaning as it has in the *Aboriginal Land Rights Act 1983*.

alluvial sediments means unconsolidated fluvio-lacustrine sediments.

approved EP&A Act development means:

- (a) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (whether before or after its repeal), or
- (b) State significant development authorised by a development consent under Part 4 of that Act, or
- (c) State significant infrastructure approved under Part 5.1 of that Act.

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

drawdown means a lowering of the level to which water will rise in cased bores.

Note. 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 capacity means the volume of water that is impounded in the pool, lagoon or lake when the pool, lagoon or lake is at the level when a visible flow out of that pool, lagoon or lake would cease.

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.

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

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

Logbook, in relation to an access licence or water supply work approval, means a written record, kept in hard copy or electronic form, that 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.

mangrove limit is defined in the document prepared by the Manly Hydraulic Laboratory entitled *Survey of Tidal Limits and Mangrove Limits in NSW Estuaries 1996 to 2005*, ISBN 0-7347-4302-5 (NSW Department of Natural Resources, Manly Hydraulics Laboratory).

Minimum Construction Requirements for Water Bores in Australia means the document published by the National Uniform Drillers Licensing Committee entitled *Minimum Construction Requirements for Water Bores in Australia*, 2012, ISBN 978-0-646-56917-8.

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

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

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 which are capable of transmitting water.

recharge means the addition of water, usually by infiltration, to an aquifer.

runoff harvesting dam means a dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are defined in harvestable rights orders made under section 54 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.

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.

Schedule 1 Access licences subject to the cease to take condition specified in clause 42 (4) of this Plan

The access licences which replace Water Act 1912 entitlements listed in Column 1 of the table below and which have share components that specify the water sources listed in Column 2 of the table below, will have the access rule specified in Column 3 imposed as mandatory conditions to give effect to clause 42 (4).

<p>Column 1</p> <p>Water Act 1912 entitlements that will be replaced by access licences on commencement of this Plan</p>	<p>Column 2</p> <p>Water Source</p>	<p>Column 3</p> <p>Access rule</p>
<p>10SL055318</p>	<p>Deua River Water Source</p>	<p>Water must not be taken when the flow in the Deua River at the rock bar located within Lot 1 DP850104 at a point 350 metres upstream of the downstream boundary of Lot 1 DP850104, Parish of Merricumbene, County of Dampier is less than or equal to 100 millimetres in height.</p>
<p>10SL055477</p>	<p>Deua River Water Source</p>	<p>Water must not be taken when the flow in the Deua River at the rock bar located within Lot 1 DP850104 at a point 350 metres upstream of the downstream boundary of Lot 1 DP850104, Parish of Merricumbene, County of Dampier is less than or equal to 100 millimetres in height.</p>
<p>10SL055683</p>	<p>Deua River Water Source</p>	<p>Water must not be taken when the flow in the Deua River at Riverview (GS217007) is less than or equal to 30 ML/day.</p>

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10SL055709	Araluen Creek Water Source	Water must not be taken when the flow in Araluen Creek at Neringla Road Gauge (GS217006) is less than 4.5 ML/day.
10SL055730	Deua River Water Source	Water must not be taken when the flow in the Deua River at the rock bar located within Lot 1 DP850104 at a point 350 metres upstream of the downstream boundary of Lot 1 DP850104, Parish of Merricumbene, County of Dampier is less than or equal to 100 millimetres in height .
10SL056602	Deua River Water Source	Water must not be taken when the flow in the Deua River at Riverview gauge (217007) is less than or equal to 5 ML/day.
10SL056603	Deua River Water Source	Water must not be taken when the flow in the Deua River at Riverview gauge (217007) is less than or equal to 5 ML/day.
10SL056635	Deua River Water Source	Water must not be taken when the flow in the Deua River at Wamban gauge (217002) is less than or equal to 3.0 ML/day.
10SL055705	Araluen Creek Water Source	Water must not be taken from Long Flat Creek or the unnamed watercourse when the flow at the point of outflow from the instream pool immediately downstream of the Neringla Road Bridge, Lot 5 DP 1099300. (217006) is less than 4.5 ML/day .
10SL050273	Mogendoura Creek Water Source	Water must not be taken when there is no visible flow in Mogendoura Creek at the road crossing adjacent to Lot 1 DP77345, Parish of Mogendoura, County of St Vincent.

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

1 General

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

Water Act 1912 entitlements that will be replaced by access licences on commencement of this Plan
10SL055995

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.

Water Act 1912 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

Note. At the commencement of this Plan there are no access licences listed in clause 2 of this Schedule. Clause 74 (2) allows for this Plan to be amended to add access licences to this Schedule subject to the requirements in that clause.

Schedule 3 Access licences used to take water from these alluvial sediments 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.

Water Act 1912 entitlements that will be replaced by access licences on commencement of this Plan
10BL150734

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.

Water Act 1912 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

Note. At the commencement of this Plan there are no access licences listed in clause 2 of this Schedule. Clause 74 (4) allows for this Plan to be amended to add access licences to this Schedule subject to the requirements in that clause.

Schedule 4 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.

Schedule 5 High priority groundwater-dependent ecosystems

High priority groundwater-dependent ecosystems in these alluvial sediments are as specified in Table C.

Table C—High priority groundwater-dependent ecosystems

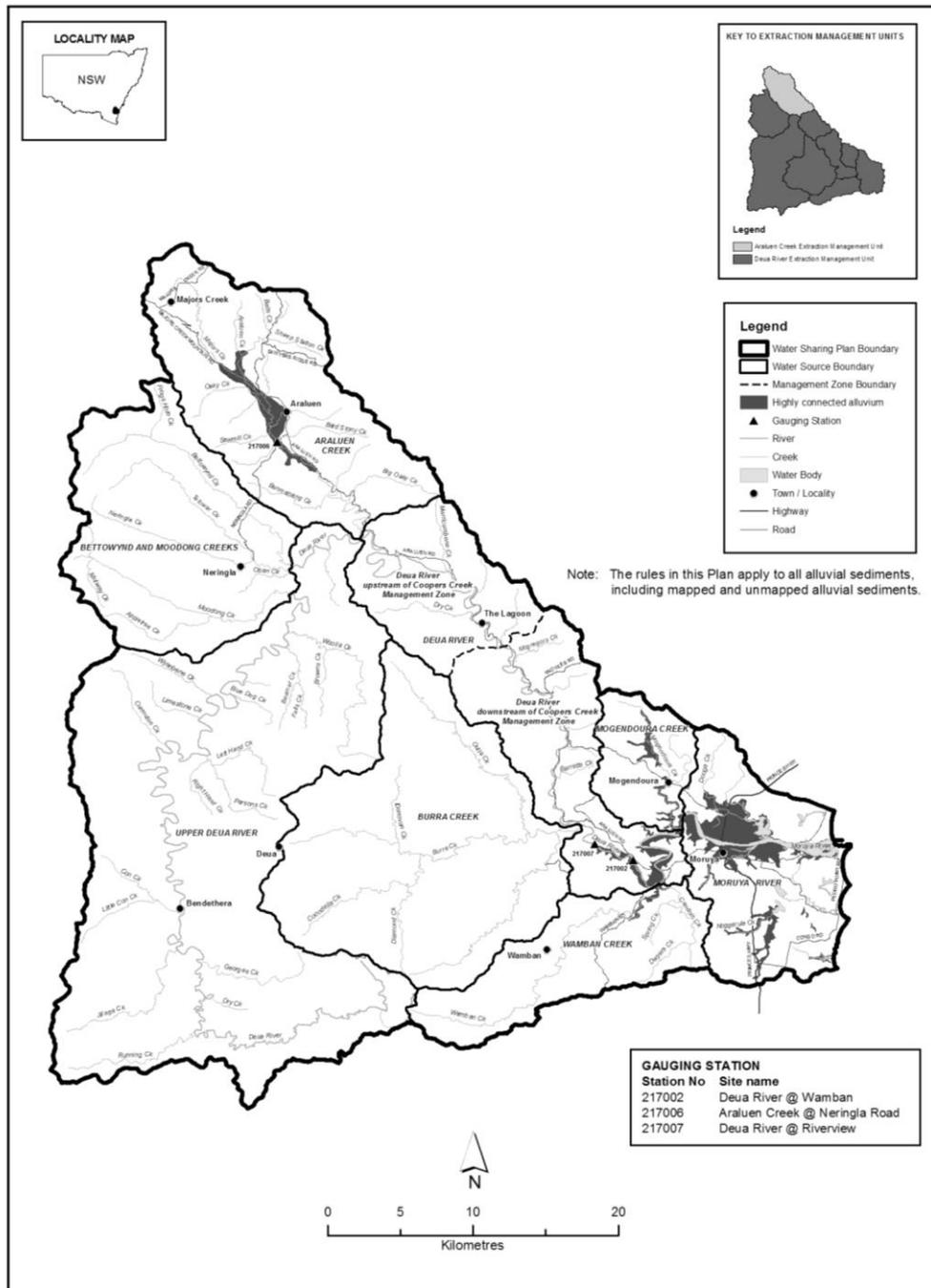
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
High priority groundwater system	Type	Easting	Northing	Zone	Water Source
Pedro Swamp	Swamp	242400	6019600	56	Moruya River Water Source

Notes.

- 1 The approximate location of high priority groundwater-dependent ecosystems (**GDEs**) listed in Column 1 of Table C is provided as Easting and Northing coordinates in Columns 3 and 4 of Table C.
- 2 The approximate location of high priority GDEs listed in Column 1 of Table C is shown on the map in Appendix 4.
- 3 High priority 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 high priority GDE, this Schedule will be amended to include the GDE.

Appendix 1 Overview of the Plan Map

Overview of the Plan Map (WSP029_Version 1) Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016



Appendix 2 Inspection of the Plan Map

Copies of the Plan Map may be inspected at the following offices:

DPI Water
NSW Department of Primary Industries
10 Valentine Ave
PARRAMATTA NSW 2150

DPI Water
NSW Department of Primary Industries
Sapphire Marketplace, Auckland Street
BEGA NSW 2550

DPI Water
NSW Department of Primary Industries
5 O'Keefe Avenue
NOWRA NSW 2541

DPI Water
NSW Department of Primary Industries
84 Crown Street
WOLLONGONG NSW 2520

Appendix 3 Offices

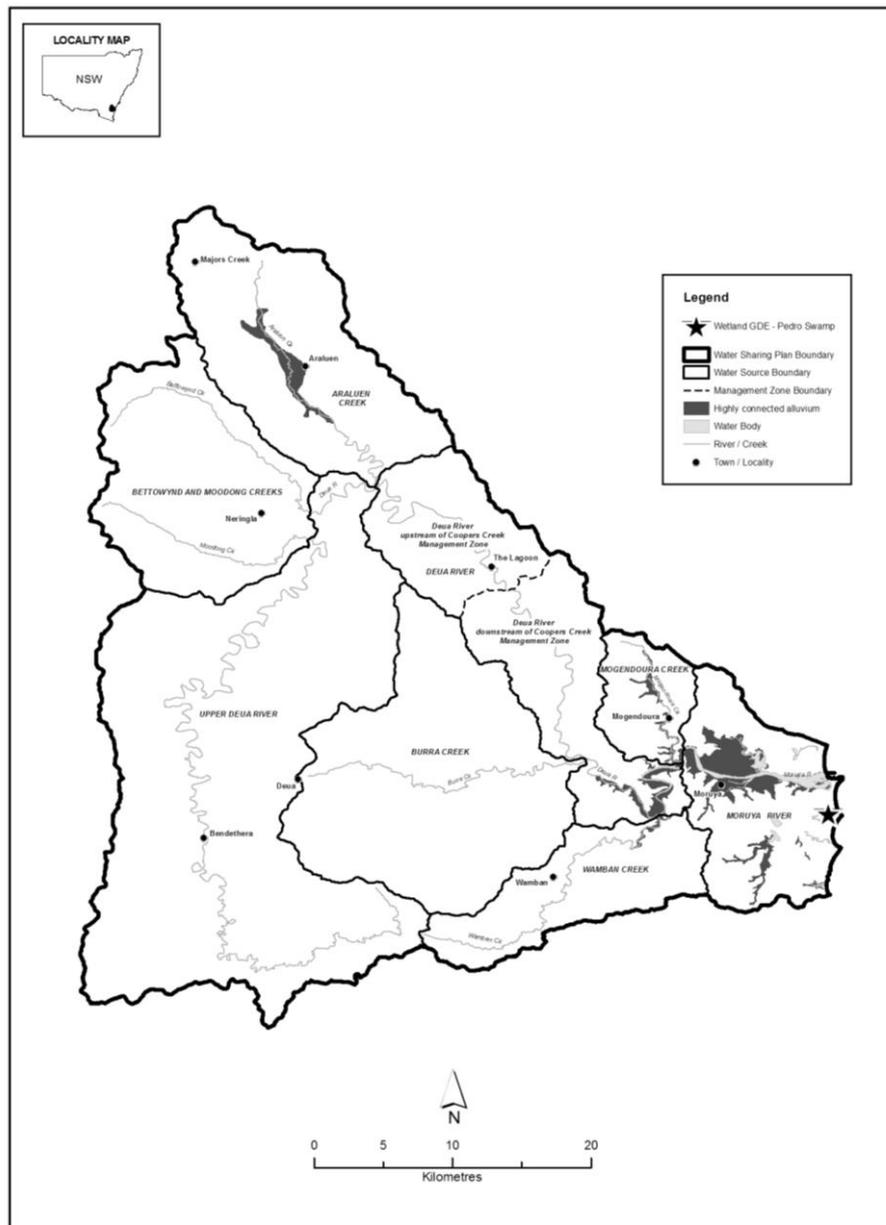
Any notifications that may be required to be made to the Minister, as specified in this Plan can be made to the following office:

DPI Water
NSW Department of Primary Industries
PO Box 48
BEGA NSW 2550

DPI Water
NSW Department of Primary Industries
PO Box 309
NOWRA NSW 2541

Appendix 4 High priority groundwater-dependent ecosystems in these alluvial sediments

High priority groundwater-dependent ecosystems in these alluvial sediments in the Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources



Note. The map in this appendix shows the approximate location of the high priority GDEs specified in Column 1 of Table C in Schedule 5.