



New South Wales

## **Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources Order 2020**

under the

Water Management Act 2000

I, MELINDA PAVEY MP, Minister for Water, Property and Housing, in pursuance of sections 45(5A) and 50 of the *Water Management Act 2000*, make the following Order.

Dated this                      day of                      2020.

MELINDA PAVEY, MP  
**Minister for Water, Property and Housing**

### **Explanatory note**

The objects of this Order are to repeal the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016* pursuant to section 45(5A) of the *Water Management Act 2000* and to make the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2020* pursuant to section 50 of the *Water Management Act 2000*.

The concurrence of the Minister for Energy and Environment was obtained prior to the making of the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2020*.

# Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources Order 2020

under the

## Water Management Act 2000

### 1 Name of Order

This Order is the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources Order 2020*.

### 2 Commencement

This Order commences on the day it is published on the NSW legislation website.

### 3 Repeal

The *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016* is repealed on XX XXXXXX 2020.

### 4 Making of Minister's Plan

The *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2020* set out at Schedule 1 is made on X XXXXXX 2020.

**Note.** This Plan commences on X XXXXXX 2020 in accordance with clause 3 of Schedule 1.

## Schedule 1

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# Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2020

## Notes.

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

## Part 1 Introduction

### 1 Name of Plan

This Plan is the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2020 (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 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 for the purposes of another section of the Act, the section is referred to in the notes to this Plan.

### 3 Commencement

This Plan commences on X XXXXXX 2020.

#### Notes.

- 1 This Plan replaces the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*.
- 2 In accordance with section 43 of the Act this Plan will have effect for 10 years from X XXXXXX 2020. The Minister may extend this Plan for a further period of 10 years after it is due to expire, in accordance with section 43A of the Act.
- 3 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was made in 2020, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Namoi surface water resource plan area.
- 4 **Basin Plan** is defined in the Dictionary.

### 4 Application of this Plan

- (1) This Plan applies to the Upper Namoi Regulated River Water Source and the Lower Namoi Regulated River Water Source within the Namoi Water Management Area (***the water sources***).

**Note.** The Namoi 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) The water in the Upper Namoi Regulated River Water Source consists of:
  - (a) the water between the banks of all rivers and parts of rivers, from Split Rock Dam water storage downstream to Keepit Dam water storage, that have been declared by the Minister to be a regulated river, and
  - (b) the water taken in the course of floodplain harvesting under a floodplain harvesting (regulated river) access licence that specifies the Upper Namoi Regulated River Water Source.
- (3) The water in the Lower Namoi Regulated River Water Source consists of:
  - (a) the water between the banks of all rivers and parts of rivers, from Keepit Dam water storage downstream to the junction of the Namoi River with the Barwon River, that have been declared by the Minister to be a regulated river, and
  - (b) the water taken in the course of floodplain harvesting under a floodplain harvesting (regulated river) access licence that specifies the Lower Namoi Regulated River Water Source.

**Notes.**

- 1 The *Namoi Water Management Area Regulated River Order* was made by the Minister and published in the New South Wales Government Gazette No 110 on 1 July 2004 at page 5484 and amended as set out in item 24 of Schedule 12 to the Act.
- 2 **Floodplain harvesting** is defined in the Dictionary.

## 5 Interpretation

- (1) 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.
- (2) Words and expressions that are defined in the Dictionary at the end of this Plan have the meaning set out in that Dictionary.
- (3) Unless otherwise specified, 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) A number in brackets following the name of a gauge is the gauge number.
- (6) Notes in the text of this Plan do not form part of this Plan.
- (7) Appendices to this Plan do not form part of this Plan.

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

### Notes.

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 This Part describes broad objectives, which are the long-term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in the Part are specific outcomes that can be achieved by the strategies in this Plan and can be directly measured so that success or failure to achieve the objective can be quantified

### 6 Acknowledgement

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

### 7 Vision statement

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

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

### 8 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect and contribute to the enhancement of the ecological condition of the water sources and their water-dependent ecosystems over the term of this Plan.
- (2) The targeted environmental objectives of this Plan are to protect and contribute to the enhancement of the following over the term of this Plan:
  - (a) the recorded distribution or extent, and the population structure, of target ecological populations,

#### Notes.

- 1 **Target ecological populations** is defined in the Dictionary.
- 2 Target ecological populations in the water sources may include known or predicted populations of the following:
  - (a) native fish including golden perch, silver perch, eel-tailed catfish, and Murray cod,
  - (b) native vegetation including river red gum woodland, black box-coolibah woodland and carbeen woodland,
  - (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and native vegetation.

- 3 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

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

**Notes.**

- 1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means flows between the river and its anabranches, riparian zones, wetlands and floodplains.

- 2 Target ecological processes in the water sources include the following:

- (a) carbon and nutrient transport pathways, which are the connected networks of streams, riparian zones, floodplains and wetlands that transport dissolved and suspended organic material and nutrients throughout the water source
- (b) fish movement across significant barriers, as identified by NSW Department of Primary Industries Fisheries.

- 3 Connectivity may be within the water sources, and between the water sources and other water sources.

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

**Note.** Water quality target ranges for the water sources are defined in the Water Quality Management Plan for the Namoi Water Resource Plan Area and the NSW State Water Quality Assessment and Monitoring Plan.

- (3) The strategies for reaching the targeted environmental objectives of this Plan are as follows:

- (a) maintain compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit,

**Note.** Part 6 of this Plan sets out the provisions for maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit.

- (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water source,

**Notes.**

- 1 **Flow regimes** and **natural flow** are defined in the Dictionary.

- 2 The provisions in Division 1 of Part 10 ensure that a portion of flows are maintained, through to the Namoi River at Walgett, between June and August.

- (c) reserve a share of water to maintain hydrological connectivity between the water sources and riparian zones, wetlands and floodplains connected to the water sources,

**Notes.**

- 1 The provisions in Division 3 of Part 8 and Division 1 of Part 10 maintain the hydrological connectivity within and between water sources by protecting a portion of flows.

- 2 The provisions in clause 54 maintain the hydrological connectivity within and between water sources by requiring that a portion of flows are maintained, through to the Namoi River at Walgett, between June and August.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted environmental objectives in subclause (2) are the changes or trends in ecological condition during the term of this Plan as assessed using one or more of the following:
  - (a) the recorded range, extent or condition of target ecological populations,
  - (b) measurements of carbon and nutrient transport processes and fish movements through priority fish passage areas,
  - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
  - (d) the magnitude, frequency, timing and water quality of environmental water events.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
  - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which changes in the performance indicators can be attributed to the strategies and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
  - (d) the extent to which external influences on these water sources during the term of this Plan have affected progress toward achieving the environmental objectives.

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

## 9 Economic objectives

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

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

- (b) to maintain, and where possible improve, access to water for agriculture, surface water-dependent businesses and landholders, up to the long-term average annual extraction limit and the long-term average sustainable diversion limit,
- (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.

(3) The strategies for reaching the targeted economic objectives of this Plan are as follows:

- (a) provide for trade of water allocations and share components subject to environmental and system constraints,

**Note.** The provisions in Part 9 permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences and assignment of water allocations between access licences.

- (b) provide a stable and predictable framework for sharing water among water users,

**Note.** The available water allocation provisions in Part 6 and priority of delivery rules in clause 58 provide certainty in how water is to be shared between different categories of access licences.

- (c) provide for flexibility of access to water,

**Note.** The water allocation account management provisions in Part 6 provide flexibility that reflects the characteristics of the licence category.

- (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit, while recognising variability in climatic conditions in different years, including during drought,

**Note.** The application of the long-term average annual extraction limit and the long-term average sustainable diversion limit and the assessment and compliance rules in Part 6 manage extractions to different climatic conditions in different years.

- (e) provide access for supplementary water access licences to a portion of uncontrolled flows, subject to announcements,

**Notes.**

1 The provisions in Division 2 of Part 8 of this Plan describes rules that determine access to uncontrolled flows in the Upper Namoi Regulated River Water Source, and Division 3 of Part 8 of this Plan describes rules that determine supplementary water access, subject to timing and location, in the Lower Namoi Regulated River Water Source.

2 The provisions in Division 3 of Part 8 of this Plan describe the conditions for access during supplementary water events.

3 **Uncontrolled flows** is defined in the Dictionary.

- (f) reserve a share of water to partially mitigate deterioration in water quality due to alterations to natural flow regimes.

**Notes.**

1 The provisions in clause 47 partially mitigate the alterations to medium and high flows in the natural flow regime of the water sources by requiring a portion of a supplementary water event be protected.

2 The provisions in clause 54 ensure that a portion of flows are maintained, through to the Namoi River at Walgett, between June and August.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan assessed using one or more of the following:
- (a) the economic benefits of water extraction and use, including the movement of water to higher value uses,
  - (b) the economic benefits of water trading as demonstrated by the following:
    - (i) the annual number or volume of share components of access licences transferred or assigned, and
    - (ii) the weighted average unit price of share components of access licences transferred or assigned, and  
**Note. Weighted average unit price** is defined in the Dictionary.
    - (iii) the annual volume of water allocations assigned, and
    - (iv) the weighted average unit price of water allocations assigned,
  - (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which the changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the water made available during the term of this plan through available water determinations and the granting of new licences,
  - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress towards achieving the economic objectives.
- Note.** External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances and changes in industry policy or regulation.

## 10 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows:
  - (a) to provide access to water in the exercise of native title rights,
  - (b) to provide access to water for Aboriginal cultural use, including fishing,
  - (c) to protect, and where possible enhance, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
  - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
  - (a) manage access to water consistently with the exercise of native title rights,
  - (b) provide for water associated with Aboriginal cultural values and uses,  
**Note.** The provisions in Part 7 provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory "Aboriginal cultural".
  - (c) reserve a share of water to partially mitigate alterations to natural flow regimes in the water sources,  
**Note.** The provisions in Division 3 of Part 8 and Division 1 of Part 10 partially mitigate the alterations to low and medium flows.
  - (d) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources,
- (4) The performance indicator used to measure the success of the strategies for reaching the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan as assessed using one or more of the following:
  - (a) the use of water by Aboriginal people by measuring factors including:
    - (i) the extent to which native title rights are able to be exercised, consistently with any determination of native title or indigenous land use agreement, and

- (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,
  - (b) the recorded range or extent of target populations of native fish
  - (c) the recorded range or condition of target populations of riparian vegetation,
  - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
  - (d) the water made available for Aboriginal cultural values and used during the term of this Plan through available water determinations and the granting of new access licences
  - (d) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress towards achieving the Aboriginal cultural objectives.
- Note.** External influences may include trends in Aboriginal cultural activity, urban, agricultural and industrial development, climate or changes in policy or regulation

## **11 Social and cultural objectives**

- (1) The broad social and cultural objective of this Plan is to provide access to surface water to support surface water-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are to maintain, and where possible improve, the following:
  - (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
  - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing, and
  - (c) water quality within target ranges for basic landholder rights, town water supply, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.

- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
- (a) provide water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,  
**Note.** The rules for the maintenance of water supply in Division 2 of Part 10 ensure that water is available for basic landholder rights, town water supply and licensed domestic and stock purposes.
  - (b) reserve a share of water to partially mitigate alterations to natural flow regimes in the water sources,
  - (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources.  
**Note.** The rules in Division 1 of Part 10 contribute to maintaining the hydrological connectivity within the water sources and with downstream water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan as assessed using one or more of the following:
- (a) the social and cultural uses of water during the term of this Plan by measuring factors including:
    - (i) the extent to which basic landholder rights, and licensed domestic and stock requirements have been met, and
    - (ii) the extent to which major utility and local utility access licence requirements have been met,
  - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,
  - (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
  - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:

- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
- (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
- (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
- (d) the water made available during the term of this Plan through available water determinations and the granting of new licences,
- (e) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress towards achieving the social and cultural objectives.

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

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## Part 3 Bulk access regime

### 12 Bulk access regime

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following:
  - (a) the planned environmental water established under Part 4,
  - (b) the requirements for water to satisfy basic landholder rights identified under Part 5,
  - (c) the requirements for water for extraction under access licences identified under Part 5,
  - (d) the access licence dealing rules established under Part 9.
- (2) The bulk access regime for the water sources:
  - (a) establishes rules according to which:
    - (i) access licences are granted as provided for in Part 7, and
    - (ii) available water determinations are to be made as provided for in Part 6, and
    - (iii) access licences are managed as provided for in Part 8, and
  - (b) 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 extraction against the long-term average annual extraction limit and the long-term average sustainable diversion limit contained in Part 6, and
  - (c) recognises and is consistent with the following:
    - (i) the limits to the availability of water as provided for in Part 7,
    - (ii) the water management principles under section 5 of the Act,
    - (iii) the effect of climatic variability on the availability of water as described in clause 13, and
  - (d) contains provisions with respect to the mandatory conditions imposed on access licences in Part 11.

### 13 Climatic variability

This Plan recognises the effects of climatic variability on river flow in the water sources through provisions in Part 6 that:

- (a) manage the sharing of water within the limits of water availability on a long-term

basis, and

- (b) establish 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 extraction against the long-term average annual extraction limit or the long-term average sustainable diversion limit, and
- (c) manage the sharing of water between categories of access licences on an annual basis through available water determinations.

**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.

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## Part 4 Environmental water provisions

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

### 14 General

This Part contains environmental water provisions that commit, identify, establish and maintain planned environmental water.

**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.

### 15 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water by reference to the following:

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

### 16 Establishment and maintenance of planned environmental water

- (1) Planned environmental water is established in the water sources as follows:
  - (a) the physical presence of water, resulting from the following:
    - (i) the environmental flow provisions specified in Division 1 of Part 10,  
**Note.** The environmental flow rules in Division 1 of Part 10 ensure that a minimum flow is maintained in the Namoi River at Walgett.
  - (b) the long-term average annual commitment of water as planned environmental water, resulting from compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit in Part 6.
- (2) The planned environmental water established under subclause (1) (a) is maintained by the environmental flow provisions specified in Division 1 of Part 10.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6.

**Note.** The provisions in Part 6 ensure that there will be water remaining in the water sources over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 6 also provide for reduced available water determinations when either of the limits have been exceeded.

## Part 5 Requirements for water

### Division 1 General

#### 17 Application

- (1) This Part identifies the requirements for water for basic landholder rights and for extraction under access licences in the water sources.
- (2) The volumes of water specified in this Part represent the estimated requirements for water to satisfy basic landholder rights and the total volumes or unit shares specified in the share components of all access licences on the commencement of this Plan.
- (3) This Plan recognises that requirements for basic landholder rights and the total share components of all access licences may change during the term of this Plan.

##### Notes.

- 1 The total share components of access licences in the water sources may change during the term of this Plan as a result of:
  - (a) the grant, surrender or cancellation of access licences in the water sources, or
  - (b) the variation of local water utility access licences under section 66 of the Act.
- 2 Basic landholder rights may increase as provided for under the Act. This Plan manages changes in basic landholder rights and total share components of all access licences through provisions in Part 6 that manage the sharing of water within the limits of water availability.
- 3 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water should not be consumed, or otherwise used, without first being tested and, if necessary, appropriately treated to ensure it is fit for purpose. Testing and treatment is the responsibility of the water user.

### Division 2 Requirements for water for basic landholder rights

**Note.** Under the Act, basic landholder rights are defined as domestic and stock rights, native title rights and harvestable rights. There are no harvestable rights in the water sources.

#### 18 Domestic and stock rights

- (1) On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights in the Upper Namoi Regulated River Water Source are estimated to total 160 megalitres per year (*ML/year*).
- (2) On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights in the Lower Namoi Regulated River Water Source are estimated to total 1,776 ML/year.

##### Notes.

- 1 Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.
- 2 Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.

- 3 The volumes set out in this clause are separate from any volumes of water that may be taken under an access licence for domestic and stock purposes.

## 19 Native title rights

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

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

### Notes.

- 1 No determinations of native title in relation to the water sources have been made in accordance with the *Native Title Act 1993* of the Commonwealth.
- 2 This Plan provides for its amendment if there is an additional, or change to, a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

## Division 3 Requirements for water under access licences

### Notes.

- 1 The share components in this Division include licensed environmental water as defined in section 8 of the Act. The Environmental Water Register maintained by the Department provides a record of licensed environmental water, as well as other water intended for environmental purposes.
- 2 On the commencement of this Plan, there are eight access licences with share components totalling 13,548 unit shares that are not identified as licensed environmental water but are intended to be used for environmental purposes. These licences are held by the Commonwealth Government. These access licences are regulated river (general security) access licences.
- 3 This Division sets out total volumes or unit shares in the share components of access licences in the water sources on the commencement of this Plan. The actual volume of water available from year to year will depend on climate, access licence priority and the provisions in this Plan.

## 20 Share components of domestic and stock access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock access licences total:

- (a) 90 ML/year in the Upper Namoi Regulated River Water Source, and
- (b) 1,998 ML/year in the Lower Namoi Regulated River Water Source.

## 21 Share components of local water utility access licences

On the commencement of this Plan, it is estimated that the share components of local water utility access licences total:

- (a) 515 ML/year in the Upper Namoi Regulated River Water Source, and
- (b) 2,271 ML/year in the Lower Namoi Regulated River Water Source.

## 22 Share components of regulated river (high security) access licences

On the commencement of this Plan, it is estimated that the share components of

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regulated river (high security) access licences total:

- (a) 80 unit shares in the Upper Namoi Regulated River Water Source, and
- (b) 3,904 unit shares in the Lower Namoi Regulated River Water Source.

### **23 Share components of regulated river (general security) access licences**

On the commencement of this Plan, it is estimated that the share components of regulated river (general security) access licences total:

- (a) 11,454 unit shares in the Upper Namoi Regulated River Water Source, and
- (b) 245,075 unit shares in the Lower Namoi Regulated River Water Source.

### **24 Share components of supplementary water access licences**

On the commencement of this Plan, it is estimated that the share components of supplementary water access licences total:

- (a) 0 unit shares in the Upper Namoi Regulated River Water Source, and
- (b) 115,479 unit shares in the Lower Namoi Regulated River Water Source.

## Part 6 Limits to the availability of water

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

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

### Division 1 Calculations under this Part

#### 25 Exclusions, inclusions and variations in calculations

(1) This clause applies to the calculation of the following:

- (a) the long-term average annual extraction under clause 26,
- (b) the average annual extraction under clause 27,
- (c) the annual permitted take under clause 31,
- (d) the annual actual take under clause 31.

**Note.** *Annual permitted take* and *annual actual take* are defined in the Dictionary.

(2) The calculation by the Minister to which this clause applies must:

- (a) exclude the following:
  - (i) allocations assigned from an access licence in the water sources to an access licence in a water source that is not one of the water sources, under section 71T of the Act,
  - (ii) environmental flows provided for in Division 1 of Part 10,
  - (iii) replenishment flows made in accordance with clause 56,
  - (iv) in relation to average annual extraction under clause 27 only, water committed as licensed environmental water under section 8F of the Act, and
- (b) include allocations assigned to an access licence in the water sources from an access licence in a water source that is not one of the water sources, under section 71T of the Act.

(3) The calculation by the Minister of the long-term average annual extraction limit under clause 26 must be adjusted by a volume that appropriately reflects the following:

- (a) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act,
- (b) any change to the amount of water committed as licensed environmental water under section 8F of the Act.

## Division 2 Long-term average annual extraction limit

### 26 Calculation of the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister must calculate the long-term average annual extraction limit for the water sources in accordance with this clause and clause 25.
- (2) The long-term average annual extraction limit is the lesser of the following:
  - (a) average annual extraction calculated based on the following:
    - (i) the water storages and water use development that existed in the 1999/2000 water year,
    - (ii) the basic landholder rights and access licence share components that existed on 1 July 2004,
    - (iii) the rules in the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003* as at 1 July 2004,
    - (iv) the level of development for plantation forestry that existed on 30 June 2009,
    - (v) the level of development for floodplain harvesting that existed in the 1999/2000 water year in connection with extractions from a regulated river in the water sources, as assessed by the Minister,
  - (b) average annual extraction calculated under Cap baseline conditions as agreed under the Murray-Darling Basin Agreement that was in place at the commencement of the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003*.
- (3) For the purposes of subclause (2), the average annual extraction is to be calculated over the duration of available climate records using the hydrological computer model approved by the Minister and is separate to the calculation of the average annual extraction under clause 27.

#### Notes.

- 1 Under section 8F of the Act the long-term average annual extraction limit is to be varied by any change to licensed environmental water, excluding water committed under section 8C of the Act.
- 2 The long-term average annual extraction limit recognises the effect of climatic variability on the availability of water, in accordance with section 20 (2) (c) of the Act, as historic climate and river flow information is used in its determination.
- 3 **Cap baseline conditions, Murray-Darling Basin Agreement, Plantation forestry, water storage and water use development** are defined in the Dictionary.

## **27 Calculation of average annual extraction**

The Minister, using the hydrological computer model approved by the Minister, is to calculate the average annual extraction following the end of each water year, calculated over the duration of available climate records and based on the following:

- (a) the water storages and water use development that existed in that water year,
- (b) the basic landholder rights and access licence share components that existed in that water year,
- (c) the rules in this Plan or in the water sharing plan that this Plan replaces, that applied in that water year,
- (d) the level of development for plantation forestry in that water year,
- (e) if not included under subclause (b), the level of development for floodplain harvesting in conjunction with extractions under an access licence in the water sources in that water year.

**Note.** It is intended that the Department's current conditions hydrological computer model will be updated each water year and used to calculate average annual extraction under this clause.

## **28 Calculation of growth in extraction by Tamworth Regional Council**

- (1) Following the end of each water year, the Minister is to calculate the average annual extraction by all access licences held by Tamworth Regional Council within the Namoi Water Management Area.
- (2) Following the calculation under subclause (1), the Minister must calculate the growth in extraction by Tamworth Regional Council by subtracting the average annual extraction by all access licences held by Tamworth Regional Council within the Namoi Water Management Area under Cap baseline conditions from the average annual extraction calculated under subclause (1).
- (3) If the growth calculated in accordance with subclause (2) is less than zero, the growth is taken to be zero.
- (4) For the purposes of subclause (1) and (2), average annual extraction is to be calculated over the duration of available water climate records using the hydrological computer model approved by the Minister.

## **29 Assessment of compliance with the long-term average annual extraction**

- (1) Following the calculations under clauses 26, 27 and 28, the Minister is to compare average annual extraction calculated under clause 27 plus 95% of the growth in extraction by Tamworth Regional Council calculated under clause 28 against the long-term average annual extraction limit.

- (2) There is non-compliance with the long-term average annual extraction limit if average annual extraction plus 95% of the growth in extraction by Tamworth Regional Council exceeds any of the following:
- (a) the long-term average annual extraction limit by:
    - (i) 3% or more, or
    - (ii) more than half the difference between the average annual extraction calculated under subclauses 26 (2) (a) and 26 (2) (b),
  - (b) the average annual extraction calculated under subclause 26 (2) (b).

### **Division 3 Long-term average sustainable diversion limit**

#### **30 Calculation of the long-term average sustainable diversion limit**

- (1) Subject to any variation under clause (2), the long-term average sustainable diversion limit for the water sources is:
- (a) the component of the baseline diversion limit for the Namoi surface water SDL resource unit as determined under Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to the water source, minus
  - (b) the component of the local reduction amount for the Namoi surface water SDL resource unit as determined under Schedule 2 of the Basin Plan, that in the Minister's opinion is attributable to the water sources, minus
  - (c) the component of the shared reduction amount for the Namoi surface water SDL resource unit as determined under section 6.05 of the Basin Plan, that in the Minister's opinion is attributable to the water sources.
- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

#### **Notes.**

- 1 **Baseline diversion limit** and **SDL resource unit shared reduction amount** are defined in the Dictionary.
- 2 The long-term sustainable diversion limit for the Namoi surface water SDL resource unit specified in Schedule 2 of the Basin Plan covers extraction from the water sources, the Peel Regulated River Water Source the Namoi Unregulated River Water Sources and the Peel Unregulated River Water Sources.
- 3 The SDL resource unit local reduction amount and the SDL resource unit shared reduction amount for the Namoi surface water SDL resource unit are prescribed in Schedule 2 of the Basin Plan. The SDL resource unit local reduction amount prescribed in the Basin Plan for the Namoi surface water SDL resource unit is 20,000 megalitres.

#### **31 Calculation of annual permitted take and annual actual take for the water year**

- (1) Following the end of each water year, the Minister is to calculate the annual permitted take and annual actual take of water for the previous water year in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.

- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to the water sources.

**Notes.**

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

**32 Assessment of compliance with the long-term average sustainable diversion limit**

- (1) Following the calculation under clause 31 after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit, in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

**Division 4 Compliance with extraction and diversion limits**

**33 Action following non-compliance**

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 29 or 32 demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister is to take any one or more of the following actions:
  - (a) make future available water determinations for supplementary water access licences of less than 1 megalitre (*ML*) per unit share,
  - (b) reduce the limit to the sum of available water determinations that can be made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source under clause 38,
  - (c) reduce the limit to the amount of water allocation that may be taken or assigned from regulated river (general security) access licences in the Lower Namoi Regulated River Water Source under clause 43.

**Note.** Action under this clause will have effect from the water year following the assessment, which will be two water years after the non-compliance occurred.

- (2) The Minister may take the action specified in subclause (1) if an assessment under clause 32 would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (3) An action under subclause (1) and (2) is to be taken to the extent to which, and only for as long as, the Minister considers the following is necessary:

- (a) in the case of non-compliance with the long-term average annual extraction limit— to return long-term average annual extraction in the water sources plus 95% of the growth in extraction by Tamworth City Council to the long-term average annual extraction limit,
  - (b) in the case of non-compliance with the long-term average sustainable diversion limit— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
  - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) The Minister must not take action under subclauses (1) and (2) to reduce the limits to the sum of available water determinations that can be made for regulated river (general security) access licences or to the amount of water allocation that may be taken or assigned from regulated river (general security) access licences unless the Minister has made an available water determination for supplementary water access licences of zero.
- (5) In taking action under subclauses (1) and (2) the Minister must make the same reduction to:
- (a) the available water determination limits for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source under clause 38, and
  - (b) the limits to the amount of water allocations that may be taken or assigned under both subclauses 43 (1) (a) and 43 (2) (a).
- (6) Before taking action under subclause (1) or (2), the Minister may consult with water user representatives on the following:
- (a) the data used for the calculations under Divisions 2 and 3,
  - (b) the proposed actions under this Division.

## **Division 5 Available water determinations**

### **34 General**

- (1) Available water determinations for access licences are to be expressed as one of the following:
- (a) with respect to access licences specifying share components as ML/year—a percentage of the share component,
  - (b) with respect to access licences specifying share components as a number of unit shares— ML per unit share.

- (2) The sum of available water determinations made for any access licence, other than for regulated river (general security) access licences in the Lower Namoi Regulated River Water Source, must not exceed the following in any water year:
  - (a) for any access licence where share components are specified as ML/year— 100% of the share component,
  - (b) for any access licence specifying the share component as a number of unit shares— 1 ML per unit share of the share component.

### **35 Available water determinations for domestic and stock access licences**

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for domestic and stock access licences.

### **36 Available water determinations for local water utility access licences**

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for local water utility access licences.

### **37 Available water determinations for regulated river (high security) access licences**

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination is to be made for regulated river (high security) access licences of 1 ML per unit share.
- (2) The Minister must not make an available water determination in accordance with this clause unless sufficient water is available for all of the following:
  - (a) to meet the provisions in Division 1 of Part 10,
  - (b) to meet the requirements for basic landholder rights,
  - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
  - (d) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts,
  - (e) to account for water losses associated with holding and delivering the water:
    - (i) as a result of the available water determination made in accordance with subclause (1), and
    - (ii) referred to in subclauses (a) to (d) above.

**Note.** If the available water determination is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to clause 34.

### **38 Available water determinations for regulated river (general security) access licences**

- (1) The Minister is to assess, at least monthly, if water is available for the making of an available water determination for regulated river (general security) access licences.
- (2) For the purposes of the assessment, water is not available unless sufficient water is available for the following:
  - (a) to meet the provisions in Division 1 of Part 10,
  - (b) to meet the requirements for basic landholder rights,
  - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
  - (d) to make available water determinations totalling 1 ML per unit share for regulated river (high security) access licences,
  - (e) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts,
  - (f) to account for water losses associated with holding and delivering the water:
    - (ii) to be made available as a result of the available water determination under this clause, and
    - (ii) referred to in subclauses (a) to (e) above.
- (3) For the purposes of the assessment, water in Split Rock Dam water storage exceeding that needed to provide for available water determinations in the Upper Namoi Regulated River Water Source under subclause (5) (b), (c) or (d), is to be made available for regulated river (general security) access licences in the Lower Namoi Regulated River Water Source.
- (4) If the Minister assesses under subclause (1) that water is available, the Minister is to consider making an available water determination for regulated river (general security) access licences.
- (5) The sum of available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water source during a water year must not exceed:
  - (a) 0 ML per unit share, if the volume of water held in Split Rock Dam water storage has been less than 5% of the full supply volume at any time during the water year,
  - or

- (b) 0.5 ML per unit share, if the volume of water held in Split Rock Dam water storage has been greater than 5% and less than 8% of the full supply volume at any time during the water year, or
- (c) 0.6 ML per unit share, if the volume of water held in Split Rock Dam water storage has been greater than 8% and less than 10% of the full supply volume at any time during the water year, or
- (d) 1 ML per unit share or such lower limit determined under clause 33, if the volume of water held in Split Rock Dam water storage has been greater than 10% of the full supply volume at any time during the water year.

### **39 Available water determinations for supplementary water access licences**

At the commencement of each water year, the Minister is to make an available water determination for supplementary water access licences of 1 ML per unit share, unless a lower amount is determined under clause 33.

**Note.** Taking of water under a supplementary water access licence is subject to the rules in Part 8.

## Part 7 Rules for granting access licences

### Notes.

- 1 This Part is made in accordance with sections 61 and 63 of the Act. Section 61 of the Act provides for applications for specific purpose access licences in accordance with the regulations and the relevant water sharing plan.
- 2 Access licences granted in the water sources will be subject to mandatory conditions required to be imposed by this Plan, the regulations and the Act, and may be subject to discretionary conditions.

### 40 Specific purpose access licences

- (1) The Minister must not grant a specific purpose access licence unless satisfied that the share and extraction components of the access licence are the minimum required for the proposed use.
- (2) A person may make an application for a regulated river (high security) (Aboriginal cultural) access licence if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) The Minister may only grant a regulated river (high security) (Aboriginal cultural) access licence 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.

## **Part 8      Operation of water allocation accounts and managing access licences**

### **Notes.**

- 1      Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part restrict the water that may be taken under, or assigned from, an access licence over a specified period of time, and the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These restrictions are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.
- 2      The provisions in this Part apply to the following:
  - (a)    the Minister in managing water allocation accounts,
  - (b)    the access licence holder, as required by mandatory conditions imposed on the access licence under Part 11.

### **Division 1    Accounting for water allocation accounts**

#### **41    Debits from an individual water allocation account**

- (1)    For any access licence other than a supplementary water access licence, the Minister must debit the greater of the following from the water allocation account for that access licence, except where clause 44 applies:
  - (a)    the volume of water extracted by water supply works nominated by the access licence,
  - (b)    the water ordered for extraction under the access licence.
- (2)    For a supplementary water access licence, the Minister must, in accordance with any applicable supplementary water announcement, debit the volume of water extracted by water supply works nominated by the access licence from the water allocation account for that access licence.

#### **42    Limits on water allocation accounts and carryover**

- (1)    The Minister must not allow allocations in a water allocation account in the Upper Namoi Regulated River Water Source to exceed the following at any time:
  - (a)    for a domestic and stock access licence or local water utility access licence— 100% of the share component,
  - (b)    for a regulated river (high security) access licence— 1 ML per unit share,
  - (c)    for a regulated river (general security) access licence:
    - (i)    1.5 ML per unit share,
    - (ii)   plus any water allocations assigned from another access licence in that water year,
    - (iii)  minus any water allocations assigned to another access licence in that water year.

- (2) Water allocations remaining in a water allocation account must not be carried over from one water year to the next water year for the following categories of licence in the Upper Namoi Regulated River Water Source:
  - (a) domestic and stock access licence,
  - (b) local water utility access licence,
  - (c) regulated river (high security) access licence.
- (3) Subject to subclause (1), water allocations remaining in the water allocation account must be carried over from one water year to the next water year for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source up to a maximum of 0.5 ML per unit share.
- (4) The Minister must not allow allocations in a water allocation account in the Lower Namoi Regulated River Water Source to exceed the following at any time:
  - (a) for a domestic and stock access licence or local water utility access licence— 100% of the share component,
  - (b) for a regulated river (high security) access licence— 1 ML per unit share,
  - (c) for a regulated river (general security) access licence— 2 ML per unit share.
- (5) Water allocations remaining in a water allocation account must not be carried over from one water year to the next water year for the following categories of licence in the Lower Namoi Regulated River Water Source:
  - (a) domestic and stock access licence,
  - (b) local water utility access licence,
  - (c) regulated river (high security) access licence,
  - (d) supplementary water access licence.
- (6) Subject to subclause (4), water allocations remaining in the water allocation account must be carried over from one water year to the next water year for regulated river (general security) access licences in the Lower Namoi Regulated River Water Source.

#### **43 Accounting rules**

- (1) For a regulated river (general security) access licence in the Lower Namoi Regulated River Water Source, the total water allocation that is taken, assigned under section 71T of the Act, or otherwise debited or withdrawn, from a water allocation account between 1 October and 30 September the following year must not exceed the following:
  - (a) 1.25 ML per unit share or such lower limit as determined under clause 33,

- (b) plus any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in that period,
  - (c) plus any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that period.
- (2) For a regulated river (general security) access licence in the Lower Namoi Regulated River Water Source, the total water allocation that is taken, assigned under section 71T of the Act, or otherwise debited or withdrawn, from a water allocation account in any period comprising three consecutive periods of 12 months, beginning 1 October and ending 30 September, must not exceed the following:
- (a) 3 ML per unit share or such lower amount as determined under clause 33,
  - (b) plus any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in those three years
  - (c) plus any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that period.

## **Division 2 Taking of uncontrolled flows**

### **44 Taking of uncontrolled flows in the Upper Namoi Regulated River Water Source**

**Note.** This clause is made under section 85A of the Act.

- (1) The Minister may, by order published on the Department's website, authorise the holders of regulated river (general security) access licences in the Upper Namoi Regulated River Water Source to take water from uncontrolled flows, that has not been credited to the water allocation account of those licences whenever the sum of available water determinations made for those licences in the current water year is less than or equal to 0.6 ML per unit share.
- (2) The taking of uncontrolled flows by regulated river (general security) access licences that nominate a water supply work located on the Manilla River downstream of Split Rock Dam is permitted when the flow in the Manilla River at Brabri (Merriwee) gauge (41020) is greater than or equal to:
  - (a) the flow required to satisfy water orders downstream of the Manilla River at Brabri (Merriwee) gauge (41020) in the Upper Namoi Regulated River Water Source, plus
  - (b) any flows resulting from releases made as part of a bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage, plus
  - (c) 100 ML.
- (3) The taking of uncontrolled flows by regulated river (general security) access licences

that nominate a water supply work located on the Namoi River in the Upper Namoi Regulated River Water Source is permitted when the flow in the Namoi River at Manilla Railway Bridge gauge (419022) is greater than or equal to:

- (a) the flow needed to satisfy water orders downstream of the Namoi River at Manilla Railway Bridge gauge (419022) in the Upper Namoi Regulated River Water Source, plus
  - (b) any flows resulting from releases made as part of a bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage, plus
  - (c) 200 ML.
- (4) The total amount of water permitted to be taken under this clause in any water year is the lesser of:
- (a) 1 ML per unit share of the regulated river (general security) access licence share component minus the sum of allocations credited to the regulated river (general security) access licence, and
  - (b) 0.5 ML per unit share of the regulated river (general security) access licence share component.
- (5) If the total amount of uncontrolled flows taken under an access licence exceeds the limits specified in subclause (4), then a volume equivalent to the exceedance must be debited from the water allocation account in that water year.

### **Division 3 Supplementary water events**

**Note.** This Division is made under section 70 of the Act.

#### **45 Definitions**

In this Division:

*supplementary water event volume* means the sum of uncontrolled flows in the segments of the Lower Namoi Regulated River Water Source that occur when those uncontrolled flows are sufficient to provide flows between the relevant supplementary water event start flow specified in Column 3 of Tables A, B and C and the relevant supplementary water event finish flow specified in Column 4 of Tables A, B and C.

#### **46 Taking of water under supplementary water licences in the Lower Namoi Regulated River Water Source**

The holder of a supplementary water access licences in the Lower Namoi Regulated River Water Source may only take water in accordance with supplementary water event announcements made by the Minister that are relevant to that licence.

#### 47 Announcement of supplementary water event

- (1) The Minister may announce a supplementary water event in the Lower Namoi Regulated River Water Source:
  - (a) if, in the Ministers opinion, there will be uncontrolled flows in the segment of the water source to which the announcement applies, and
  - (b) in accordance with this clause.

- (2) A supplementary water event is not to be announced, or is to be restricted, when in the Minister's opinion this is required to ensure outflows from the Lower Namoi Regulated River Water Source contribute to meeting the requirements of the Barwon-Darling Flow Targets specified in Schedule 1.

**Note.** The Namoi is one of a number of Barwon-Darling tributary rivers that are subject to the Barwon-Darling Flow Targets specified in Schedule 1. These flow targets may, at times, be met by flows coming from other rivers or may require contributions of flow from several rivers.

- (3) Action under subclause (2) must not substantially alter the long-term average annual total amount of water able to be extracted under supplementary water access licences in the Lower Namoi Regulated River Water Source.

- (4) In making an announcement, the Minister must:

- (a) ensure that the taking of water by supplementary water access licences with extraction components that specify Class B will not constrain the volume of water that can be taken by supplementary water access licences with extraction components that specify Class A,

**Note.** The effect of paragraph (a) is that no pumping will be permitted by supplementary water access licences with Class B extraction components until there is sufficient flow to fully provide for any pumping allowed under supplementary water access licences with Class A extraction components.

- (b) ensure that the amount specified under subclause (5) (c) does not result in the extraction of more than 50% of the supplementary water event volume, and
- (c) be satisfied that the amount specified under subclause (5) (c) for a supplementary water access licence that nominates a water supply work located in the Gunidgera/Pian system ensures that the flow at the Pian Creek at Dempseys Bridge gauge (419089) is the lesser of:
  - (i) 50 ML/day, or
  - (ii) the sum of inflows entering the Gunidgera/Pian system downstream of the Gunidgera offtake.

**Note.** *Gunidgera/Pian system* is defined in the Dictionary.

- (5) An announcement must include the following:

- (a) the segments of the Lower Namoi Regulated River Water Source to which the

announcement applies,

- (b) the start or end date, or both, of the supplementary water event,
  - (c) the maximum volume of water that may be taken under a supplementary water access licence, expressed as a number of ML per unit share plus any water allocations traded into the licence holder’s water allocation account for that licence and minus any water allocations traded out of that account.
- (6) A supplementary water event upstream of the Namoi River at Narrabri must:
- (a) not commence until the flows upstream of Narrabri have increased to a rate sufficient to provide uncontrolled flows that will meet the supplementary water event start flow specified in Column 3 of Table A at the flow reference points specified in Column 5 of Table A, and
  - (b) cease when the flows upstream of Narrabri have decreased to a rate that is no longer sufficient to provide uncontrolled flows equal to the supplementary water event finish flow specified in Column 4 of Table A at the flow reference points specified in Column 5 of Table A,

whenever the sum of water allocations in the accounts of regulated river (general security) access licences in the Lower Namoi Regulated River Water Source is equal to that specified in Column 1 of Table A during the period specified in Column 2 of Table A.

**Table A —Supplementary water event start and finish flows for upstream of the Namoi River at Narrabri**

<b>Column 1 Total water allocations (ML)</b>	<b>Column 2: Period</b>	<b>Column 3: Supplementary water event start flow (ML/day)</b>	<b>Column 4: Supplementary water event finish flow (ML/day)</b>	<b>Column 5: Flow reference points</b>
Less than or equal to 90,000	1 July to 31 August	2,000	1,000	Narrabri Creek at Narrabri (419003) plus Namoi River at Narrabri (419002)
	1 September to 30 June	500	500	
Greater than 90,000	1 July to 31 August	6,000	4,000	
	1 September to 31 December	5,000	3,000	
	1 January to 31 January	4,000	2,000	
	1 February to 30 June	2,000	1,000	

- (7) If all uncontrolled flows are occurring from inflows to the water sources upstream of the Namoi River at Narrabri, then a supplementary water event downstream of the Namoi River at Narrabri must:
- (a) not commence until “X” days after the flow at the flow reference points specified

in Column 5 of Table A has increased to the relevant supplementary water event start flow specified in Column 3 of Table A, and

- (b) cease “X” days after the flow at the flow reference points specified in Column 5 of Table A has decreased to the relevant supplementary water event finish flow specified in Column 4 of Table A,

whenever the sum of water allocations in the accounts of regulated river (general security access licences in the Lower Namoi Regulated River Water Source is equal to that specified in Column 1 of Table A during the period specified in Column 2 of Table A.

- (8) For the purposes of subclause (7), “X” is the river flow time of travel in days between Narrabri and the location of the water supply works which are used for take of water during supplementary events.
- (9) If all uncontrolled flows are occurring from inflows to the water sources downstream of the Namoi River at Narrabri and upstream of Weeta Weir, then a supplementary water event downstream of the Namoi River at Narrabri must:

- (a) not commence until “Y” days after the flow at the flow reference point specified in Column 5 of Table B, has increased to the relevant supplementary water event start flow specified in Column 3 of Table B, and
- (b) cease “Y” days after the flow at the flow reference point specified in Column 5 of Table B has decreased to the relevant supplementary water event finish flow specified in Column 4 of Table B,

whenever the sum of water allocations in the accounts of regulated river (general security access licences in the Lower Namoi Regulated River Water Source is equal to that specified in Column 1 of Table B during the period specified in Column 2 of Table B.

- (10) For the purposes of subclause (9), “Y” is the river flow time of travel in days between the relevant flow reference point specified in Column 5 of Table B and the location of the water supply works which are to be used for take of water during the supplementary water event.

**Table B —Supplementary water event start and finish flows for downstream of the Namoi River at Narrabri**

<b>Column 1 Total water allocations (ML)</b>	<b>Column 2: Period</b>	<b>Column 3: Supplementary water event start flow (ML/day)</b>	<b>Column 4: Supplementary water event finish flow (ML/day)</b>	<b>Column 5: Flow reference points</b>
Less than or equal to 90,000	1 July to 31 August	2,000	1,000	Namoi River at Mollee (419039)

		2,000	1,000	Namoi River at downstream Gunidgera Weir (419059)
		2,000	1,000	Namoi River at downstream Weeta Weir (419068)
	1 September to 30n June	500	500	Namoi River at Mollee (419039)
		500	500	Namoi River at downstream Gunidgera Weir (419059)
		500	500	Namoi River at downstream Weeta Weir (419068)
Greater than 90,000	1 July to 31 August	6,000	4,000	Namoi River at Mollee (419039)
		2,130	2,130	Namoi River at downstream Gunidgera Weir (419059)
		2,130	2,130	Namoi River at downstream Weeta Weir (419068)
	1 September to 31 December	5,000	3,000	Namoi River at Mollee (419039)
		4,000	2,500	Namoi River at downstream Gunidgera Weir (419059)
		3,000	2,000	Namoi River at downstream Weeta Weir (419068)
	1 January to 31 January	4,000	2,000	Namoi River at Mollee (419039)
		3,000	2,000	Namoi River at downstream Gunidgera Weir (419059)
		2,000	1,500	Namoi River at downstream Weeta Weir (419068)
	1 February to 31 July	2,000	1,000	Namoi River at Mollee (419039)
		2,000	1,000	Namoi River at downstream Gunidgera Weir (419059)
		1,500	1,000	Namoi River at downstream Weeta Weir (419068)

- (11) If uncontrolled flows are insufficient to meet the requirements of subclause (9), the Minister may announce a supplementary water event downstream of Weeta Weir, but only if inflows to the Lower Namoi Regulated River Water Source downstream of Weeta Weir are sufficient to ensure an uncontrolled flow in the Namoi River at upstream Walgett (419091) that is equal to or greater than the relevant supplementary water event flow threshold specified in Column 2 of Table C for the period specified (if any) in

Column 3 of Table C will occur, whenever the sum of water allocations in the accounts of regulated river (general security) access licences in the Lower Namoi Regulated River Water Source is equal to that specified in Column 1 of Table C.

**Table C —Supplementary water event thresholds for uncontrolled flows downstream of Weeta Weir**

<b>Column 1 Total water allocations (ML)</b>	<b>Column 2: Supplementary water event flow threshold (ML/day)</b>	<b>Column 3: Period</b>
Less than or equal to 90,000	10	Not applicable
Greater than 90,000	200	5 consecutive days

**Note.** Clause 47 specifies limits to total extractions by all Lower Namoi supplementary water access licence holders during periods when flows are above specified threshold flow thresholds. These rules contribute to a number of the environmental objectives specified in Part 2.

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## Part 9 Access licence dealing rules

### Notes.

- 1 Access licence dealings in the water sources are subject to the provisions of the Act, the regulations, any access licence dealing principles established under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2 At the commencement of this Plan the *Access Licence Dealing Principles Order 2004* applies. 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.
- 3 An application for a dealing may be refused or conditions applied on an access licence or water supply work approval at the time of a dealing, to give effect to the provisions of this Plan.
- 4 This Part may be amended if individual daily extraction components are imposed on access licences in the water sources.

### 48 Conversion of access licence to new category

Dealings under section 71O of the Act are prohibited.

### 49 Assignment of rights dealings (within a water source or within a water management area)

**Note.** In some segments of the water sources, the ability to deliver water is limited by supply constraints. In these segments, this clause prohibits dealings that would increase the total share components of access licences in those segments above 2004 amounts, until individual daily extraction components are imposed on each licence in that segment, under the Act.

- (1) A dealing under section 71Q of the Act within a water source is prohibited if the dealing would result in an increase in the total share components of the access licence category, specified in Column 1 of Table D, nominating water supply works located in a segment of the water sources, specified in Column 2 of Table D, to an amount that would exceed that specified in Column 3 of Table D.

**Table D**

Column 1	Column 2	Column 3
Regulated river (high security)	Downstream of the Namoi River at Mollee	Total share components as at the time of the dealing application
Domestic and stock, regulated river (high security), regulated river (general security)	Gunidgera/Pian system	Total share components as at 1 July 2004
Supplementary water	Gunidgera/Pian system	Total share components as at 1 July 2004

- (2) A dealing under section 71Q is prohibited if the dealing involves the assignment of rights from a supplementary water access licence with an extraction component that specifies B class to a supplementary water access licence with an extraction component that specifies A class.
- (3) A dealing under section 71Q between access licences with share components that specify different water sources are prohibited unless the dealing involves any of the

following:

- (a) the assignment of rights from an access licence with a share component that specifies the Upper Namoi Regulated River Water Source to an access licence with a share component that specifies the Lower Namoi Regulated River Water Source,
- (b) the assignment of rights from an access licence with a share component that specifies the Lower Namoi Regulated River Water Source to an access licence with a share component that specifies the Upper Namoi Regulated River Water Source, subject to the sum of the share components of all access licences in the Upper Namoi Regulated River Water Source not exceeding 12,139,
- (c) the assignment of rights from an access licence with a share component that specifies the Peel Regulated River Water Source, to which the *Water Sharing Plan for the Peel Regulated River Water Source 2020* applies to an access licence with a share component that specifies the Lower Namoi Regulated River Water Source, subject to a conversion factor of 0.5 being applied to the share components assigned.

#### **50 Amendment of share component dealings (change of water source)**

Dealings under section 71R of the Act are prohibited unless the dealing involves any of the following:

- (a) the cancellation of an access licence with a share component that specifies the Upper Namoi Regulated River Water Source and the issuing of an access licence with a share component that specifies the Lower Namoi Regulated River Water Source,
- (b) the cancellation of an access licence with a share component that specifies the Lower Namoi Regulated River Water Source and the issuing of an access licence with a share component that specifies the Upper Namoi Regulated River Water Source, but only if the sum of share components of all access licences in the Upper Namoi Regulated River Water Source does not exceed 12,139,
- (c) the cancellation of an access licence with a share component that specifies the Peel Regulated River Water Source, to which the *Water Sharing Plan for the Peel Regulated River Water Source 2020* applies, and the issuing of an access licence with a share component that specifies the Lower Namoi Regulated River Water Source, but only if the share component of the access licence issued is equal to 0.5 times the share component of the cancelled access licence.

## 51 Assignment of water allocation dealings

(1) A dealing under section 71T of the Act between access licences within the Upper Namoi Regulated River Water Source or within the Lower Namoi Regulated River Water Source is prohibited in any of the following circumstances:

(a) the dealing involves an assignment of water allocation to a supplementary water access licence from an access licence of any other category,

**Note.** At the commencement of this Plan, dealings under section 71T of the Act involving the assignment of water allocations from a supplementary water access licence to an access licence of any other category are also prohibited under clause 17 of the *Access Licence Dealing Principles Order 2004*.

(b) the dealing involves an assignment of water allocation from a supplementary water access licence with an extraction component that specifies B class to a supplementary water access licence with an extraction component that specifies A class,

(c) the dealing:

(i) involves an assignment of water allocations to an access licence that nominates a water supply work located in the Gunidgera/Pian system, other than a supplementary water access licence, (a *Gunidgera/Pian access licence*), and

(ii) would cause the sum of water allocations assigned to all Gunidgera/Pian access licences in a water year to exceed the sum of water allocations from all Gunidgera/Pian access licences in that water year, subject to subclause (2),

(d) the dealing:

(i) involves an assignment of water allocations to a supplementary water access licence that nominates a water supply work located in the Gunidgera/Pian system (a *Gunidgera/Pian SWAL*), and

(ii) would cause the sum of water allocations assigned to all Gunidgera/Pian SWALs in a water year to exceed the sum of water allocations from all Gunidgera/Pian SWALs in that water year, subject to subclause (2).

(2) A dealing under section 71T of the Act between access licences in different water sources is prohibited unless the dealing involves any of the following:

(a) the assignment of water allocations from an access licence with a share component that specifies the Upper Namoi Regulated River Water Source to an access licence with a share component that specifies the Lower Namoi Regulated River Water Source and in the Minister's opinion there is no significant risk that the rate at which water can be released from Keepit Dam during the remainder of the water year will be insufficient to meet likely water orders,

**Note.** The maximum rate of water release from Keepit Dam is severely reduced when water storage levels are low.

- (b) the assignment of water allocations from an access licence with a share component that specifies the Lower Namoi Regulated River Water Source to an access licence with a share component that specifies the Upper Namoi Regulated River Water Source unless:
  - (i) the sum of available water determinations made for regulated river (general security) access licences in the Upper Namoi Regulated River Water Source during the water year is less than that specified in subclause 38 (5) (d), and
  - (ii) there is insufficient water available in Split Rock Dam water storage to supply the water allocations that are proposed to be assigned.

## **52 Interstate access licence transfer and assignment of water allocations**

Dealings under sections 71U or 71V of the Act are prohibited.

## **53 Nomination of water supply work dealings**

Dealings under section 71W of the Act are prohibited in any of the following circumstances:

- (a) an access licence being amended to nominate a water supply work located downstream of the Namoi River at Mollee if it would cause an increase in the total share components of all regulated river (high security) access licences nominating water supply works located downstream of the Namoi River at Mollee,
- (b) an access licence, other than a supplementary water access licence, being amended to nominate a water supply work located in the Gunidgera/Pian system if it would cause the total share components of all access licences, other than supplementary water access licences, nominating water supply works located in the Gunidgera/Pian system to exceed the total as at 1 July 2004,
- (c) a supplementary water access licence being amended to nominate a water supply work located in the Gunidgera/Pian system if it would cause the total share components of all supplementary water access licences nominating water supply works located in the Gunidgera/Pian system to exceed the total as at 1 July 2004,
- (d) an access licence that nominates a water supply work located in the Lower Namoi Regulated River Water Source being amended to nominate a water supply work located in the Upper Namoi Regulated River Water Source.

## Part 10 System operation requirements

**Note.** *Operator* is defined in the Dictionary.

### Division 1 Environmental flow rules

#### 54 Minimum flow rules

Whenever the sum of the water stored in Keepit Dam water storage and Split Rock Dam water storage is equal to or greater than 120,000 ML, the operator must ensure that the following flows are maintained in the Namoi River at Walgett gauge (419091):

- (a) for each day in June, 21 ML/day,
- (b) for each day in July, 24 ML/day,
- (c) for each day in August, 17 ML/day.

**Note.** The volumes specified in this clause represent 75% of, for each month, the computer model generated daily flow that is exceeded in 95% of days over the entire modelled period in each of the 12 calendar months, using the hydrologic computer model that, at the time, is approved for determining natural flows (i.e. river flows without water storages or water extractions) in the water sources.

### Division 2 General system operations rules

#### 55 Maintenance of water supply

- (1) In this clause, the period of lowest accumulated inflows to the water sources is identified by flow information held by the Department prior to 1 July 2004.
- (2) The operator must operate the water supply system in such a way that water would be able to be supplied during a repeat of the period of lowest accumulated inflows to the water sources, to meet the following:
  - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights,
  - (b) available water determinations of 100% of share components for domestic and stock access licences and local water utility access licences,
  - (c) available water determinations for regulated river (high security) access licences of 1 ML per unit share.
- (3) For the purposes of subclause (2), the operator must set aside sufficient volumes of water from inflows into the water sources and in reserves held in Split Rock Dam water storage, Keepit Dam water storage and in weir pools in the water sources.

**Notes.**

- 1 1 July 2004 was the date of commencement of the first water sharing plan for the water sources made under the Act, namely the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003*.
- 2 **Reserves** and **water supply system** are defined in the Dictionary.

## 56 Replenishment flows

- (1) Unless the operator otherwise determines, the operator is to provide a replenishment flow of up to 14,000 ML/year to Pian Creek downstream of Dundee Weir.
- (2) For the replenishment flow referred to in subclause (1), the operator must set aside sufficient volumes of water from inflows into the water sources and in reserves held in Split Rock Dam and Keepit Dam water storages.

**Note.** The operator may use tributary inflows to the water sources to provide the replenishment flow specified in subclause (1).

## 57 Water delivery and channel capacity constraints

In managing the water supply system, the operator must consider, determine and specify the operating channel capacities throughout the water sources after taking into account, in accordance with procedures established by the Minister, the following:

- (a) the inundation of private land or interference with access,
- (b) the effects of inundation on the floodplain and associated wetlands,
- (c) the transmission losses expected to occur,
- (d) the capacity of structures in the water supply system.

### Notes.

- 1 **Transmission losses** is defined in the Dictionary.
- 2 Operating channel capacity affects daily supply capability. The following operating channel capacities have been determined as at the commencement of this Plan:
  - (a) Pian Creek channel downstream from Gunidgera offtake has a capacity of 2,000 ML/day—80% being 1,600 ML/day, and
  - (b) Gunidgera offtake, which regulates flows into Pian Creek, has a capacity of 1,250 ML/day.

## 58 Priority of delivery for access licences

- (1) This clause does not apply to supplementary water access licences.
- (2) If supply capability due to channel capacity is insufficient in any segment of the water sources to satisfy all water orders and basic landholder rights, the following rules of priority apply:
  - (a) the operator is to give first priority to the requirements for water to satisfy basic landholder rights,
  - (b) once the requirements in (a) have been met, the operator is to supply water to domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for water, in that order,
  - (c) once the requirements in (b) have been met, unless otherwise directed by the Minister, any remaining supply capability is to be shared between regulated

river (general security) access licences that have placed an order for water, in proportion to share components specified on the access licences.

**Notes.**

- 1 **Supply capability** is defined in the Dictionary.
- 2 This clause may be amended if individual daily extraction components are imposed.

## **59 Rates of change to storage releases**

In changing the rate of the release of water from a water storage or other water supply system structure, the operator must consider relevant environmental matters, damage to river banks, public safety, and operational efficiency, in accordance with any procedures established by the Minister.

## **60 Grouping of water orders due to high delivery losses**

- (1) The operator may group water orders and periodically release water if the continuous delivery of water orders would involve unacceptably high delivery losses.
- (2) The operator is to consult with water access licence representatives before grouping water orders and releasing water in accordance with subclause (1).

## **61 Bulk transfer rules between storages**

- (1) The operator must ensure that any bulk transfer of water from Split Rock Dam water storage to Keepit Dam water storage is carried out in a manner that minimises adverse environmental impacts.
- (2) Prior to making any bulk transfer from Split Rock Dam water storage to Keepit Dam water storage the operator must:
  - (a) determine an appropriate pattern of release from Split Rock Dam, taking into consideration the volume and time requirements of the bulk transfer and the need to minimise downstream environmental impacts,
  - (b) consult with water users on the Upper Namoi and Manilla Rivers regarding the pattern of release,
  - (c) provide a minimum of 14 days' notice of the intended release to water users between Split Rock Dam and Keepit Dam water storages,
  - (d) conduct appropriate monitoring, and
  - (e) advise the community regarding the intended water releases through media releases.

**Note.** Bulk transfer releases from Split Rock Dam water storage can have significant impacts on farming operations and the river environment.

## 62 Dam operation during floods and spills

- (1) The operator must operate Keepit Dam during times of flood and spilling of water in a manner that maintains the safety of dam infrastructure.
- (2) Providing it is consistent with subclause (1), the operator must aim to:
  - (a) leave the storage as full as possible after the flood or spilling of water, and
  - (b) minimise downstream flood damage where possible.

**Note.** Split Rock Dam has a free overflow spillway and as such there are no flood operation procedures.

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## Part 11 Mandatory conditions

**Note.** Mandatory conditions relating to metering equipment and recording of information are imposed by the *Water Management (General) Regulation 2018*. Clauses in this Plan that provide for mandatory conditions to be imposed in relation to metering apply only until the roll out of the metering and reporting mandatory conditions that are prescribed in Part 10 and Part 11 of the *Water Management (General) Regulation 2018*.

### Division 1 General

#### 63 Requirement to notify

In this Part, a requirement to notify the Minister in writing will only be satisfied by writing to the email address for enquiries on the Department's website.

**Note.** At the commencement of this Plan, the email address for enquiries on the Department's website is [water.enquiries@industry.nsw.gov.au](mailto:water.enquiries@industry.nsw.gov.au).

### Division 2 Access licences

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

#### 64 Mandatory conditions on access licences

- (1) Each access licence must have mandatory conditions to give effect to the following:
  - (a) upon becoming aware of a breach of any condition of the access licence, the access licence holder must:
    - (i) notify the Minister as soon as practicable, and
    - (ii) if the notification under subparagraph (i) is not in writing, confirm the notification in writing within seven days of becoming aware of the breach,
  - (b) the taking of water in accordance with the access licence may only occur if the resulting debit to the access licence water allocation account does not exceed the volume of water allocation remaining in the licence account, except when water is taken under a regulated river (general security) access license in accordance with an order made under clause 44 that permits the taking of uncontrolled flows,
  - (c) any other condition required to implement the provisions of this Plan.
- (2) Each access licence, other than a supplementary water access licence, must have a mandatory condition that the access licence holder must not take water unless it has been ordered in accordance with procedures established by the Minister.
- (3) Each supplementary water access licence must have a mandatory condition that gives effect to Division 3 of Part 8.

### Division 3 Water supply work approvals

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

## **65 General conditions**

- (1) Each water supply work approval must have mandatory conditions to give effect to:
  - (a) the clauses set out in this Division, and
  - (b) any other condition required to implement the provisions of this Plan.
- (2) The water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in Part 8.
- (3) Upon becoming aware of a breach in any condition of the approval, the approval holder must:
  - (a) notify the Minister as soon as practicable, and
  - (b) if the notification under paragraph (a) was not in writing, confirm the notification in writing within seven days of becoming aware of the breach.
- (4) The mandatory conditions of a water supply work approval must give effect to subclause 57 (1) (a) of the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*, as in force immediately prior to the commencement of this Plan
- (5) The mandatory conditions of a water supply work approval must give effect to subclause 57 (1) (b) of the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*, as in force immediately prior to the commencement of this Plan.
- (6) The taking of water may only occur in accordance with the conditions applying to the access licence that will have its water allocation account debited for that take.
- (7) Despite subclause (1), subclauses (4) to (6) do not apply to approvals for water supply works held by Water NSW provided the approval is not nominated by an access licence.
- (8) Water supply work approvals held by Water NSW must have mandatory conditions to give effect to the provisions in Part 10.
- (9) Subclause (4) ceases to have effect in relation to an approval subject to a mandatory metering equipment condition on the day on which the condition applies to the approval.
- (10) Subclause (5) ceases to have effect in relation to the water supply work approval if the approval is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken.

- (11) Subclauses (4), (5), (9) and (10) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to the water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

**Notes.**

- 1 Mandatory metering equipment condition is defined in clause 228 of the *Water Management (General) Regulation 2018*.
- 2 Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to existing and new water supply works required to have a meter from 1 April 2019, and to other approvals in the water sources from 1 December 2021.

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## Part 12 Amendment of this Plan

### Notes.

- 1 This Part sets out amendments authorised by this Plan.
- 2 For the purposes of section 87 of the Act, the initial period for the water sources expired before the commencement of this Plan.
- 3 The Department intends to consult with relevant stakeholders before making any material amendments to this Plan in accordance with this Part.

### 66 General

For the purposes of section 45 (1) (b) of the Act, this Part provides for when this Plan may be amended and any such amendment is taken to be authorised by this Plan.

### 67 Amendments relating to Part 1

Part 1 may be amended to add, modify or remove a river or segment of river to or from the water sources providing that:

- (a) any amendment is consistent with any applicable regulated river order, and
- (b) the Minister is satisfied that there will be no impact on water available to the environment under Division 1 of Part 10 or available to any access licence in the water sources.

### 68 Amendments relating to Part 2

Part 2 may be amended following a review of the monitoring, evaluation and reporting plan that has been developed for water sources in the Namoi surface water resource plan area which considers the need for alternate performance indicators for the environmental, economic, Aboriginal cultural, and social and cultural objectives of this Plan.

### 68 Other amendments of this Plan

- (1) Clause 38 (5) may be amended to vary the storage capacity volumes of Split Rock Dam.
- (2) Clause 44 may be amended to vary the flow exceedances required to allow the taking of uncontrolled flows.

### 69 Amendments relating to individual daily extraction components

This Plan may be amended to provide for individual daily extraction components.

### 70 Amendments relating to floodplain harvesting

This Plan may be amended to include rules for the management of floodplain harvesting.

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

## **71 Amendments relating to supplementary water access licences**

Clause 47 (3) may be amended if it can be demonstrated that the changes continue to satisfy the environmental water requirements developed for the plan, and there is no increase in the long-term average annual extraction limit or the long-term average sustainable diversion limit.

## **72 Amendments relating to the minimum flow rules**

The volumes specified in clause 54 may be amended to more closely represent 75% of, for each month, the computer model generated daily flow that is exceeded in 95% of days over the entire modelled period in each of the 12 calendar months, using the hydrologic computer model that, at the time, is approved for determining natural flows (i.e. river flows without water storages or water extractions) in the water sources, if additional data is collected or further calibration of the model occurs.

## **73 Dictionary**

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

## **74 Schedules**

Schedule 1 may be amended to add, modify or remove a flow target subject to the following:

- (a) the amendment relates only to ensuring the taking of water under supplementary water access licences does not jeopardise critical environmental needs or the supply of water to basic rights holders, domestic and stock access licence holders and local water utility access licence holders in the Barwon-Darling River,
- (b) the amendment does not substantially alter the long-term average annual total amount of water able to be extracted under supplementary water access licences in the Lower Namoi Regulated River Water Source.

## **75 Other amendments (general)**

- (1) This Plan may be amended to include provisions for the following:
  - (a) the interception of water before it reaches a stream or aquifer by plantations or other means,
  - (b) water return flows, as referred to in Division 5 of Part 2 of Chapter 3 of the Act,
  - (c) provide for the conversion of regulated river (high security) access licences with share components that specify the water sources to access licences with share components that specify connected upstream unregulated water sources.

- (2) This Plan may be amended to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth.
- (3) This Plan may be amended to facilitate total extractions reaching the long-term average annual extraction limit or long-term average sustainable diversion limit, subject to:
  - (a) an assessment of compliance with the limits made under Part 6 verifying that total extractions are less than those limits over the long term,
  - (b) a review and report on the reasons for total extractions being less than the limits over the long term, including recommendations for potential changes to this Plan to increase extractions to the limits and assessment of the impacts of the recommendations on future water allocations to all categories of water access licences, and
  - (c) there being no net reduction in the protection of planned environmental water established under clause 16 of this Plan.

**Note.** Section 10.28 of the Basin Plan requires that a water resource plan must ensure there is no net reduction in the protection of planned environmental water from the protection provided under State water management law immediately before the commencement of the Basin Plan.

- (4) Division 3 of Part 6 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limit for the water sources, the Peel Regulated River Water Source, and the Namoi Unregulated Rivers Water Sources.
- (5) Subclause 38 (5) may be amended to vary the storage capacity volumes of Split Rock Dam.
- (6) Clause 44 may be amended to vary the flow exceedances required to allow the taking of uncontrolled flows.
- (7) This Plan may be amended to enable all or part of this Plan to be accredited as all or part of a water resource plan under the *Water Act 2007* of the Commonwealth.
- (8) This Plan may be amended to do any of the following for the protection of water-dependent Aboriginal cultural assets:
  - (a) identify water-dependent Aboriginal cultural assets,
  - (b) establish rules for the granting and amending of water supply work approvals,
  - (c) establish dealing rules.
- (9) This Plan may be amended to protect held environmental water that flows out of the Peel Regulated River Water Source from being extracted in the Lower Namoi Regulated River Water Source.

- (10) 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.
- (11) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

DRAFT

## Dictionary

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

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

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

**assured inflows** are the volumes of water which historic hydrologic information indicates are the minimum which can be expected to flow into the water source.

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

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

**bulk transfer** is the release of water from an upstream water storage for the purpose of supplementing the volume of water held in a downstream water storage, generally so that the downstream storage can maintain releases necessary to meet downstream water requirements in times of drought.

the **Cap** is as defined in Schedule E of the Murray Darling Basin Agreement.

**Cap baseline conditions** are those used for assessment of the Cap in Schedule E of the Murray-Darling Basin Agreement and relate to the level of water resource development at June 1994.

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

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

**flow regimes** mean, collectively, the magnitudes, durations, frequency and patterns of flows that characterise a river or water source.

**full supply volume** means the volume of water held in a water storage at the storage level considered to be the limit for the purposes of storage of water, except in periods of flood operation.

**Gunidgera/Pian system** means the regulated sections of Gunidgera Creek and Pian Creek.

**Minister** means the Minister administering the Act.

**ML** means megalitres.

**Murray-Darling Basin Agreement** means the Murray-Darling Basin Agreement as set out in Schedule 1 of the *Water Act 2007* of the Commonwealth.

**Murray-Darling Basin Authority** has the same meaning as the 'Authority' has in the *Water Act 2007* of the Commonwealth.

**natural flow** means a flow that occurs in a watershed or waterbody under natural unregulated conditions.

**operator** means the operator of the water supply system for the water sources.

**Note.** At the commencement of this Plan, this is Water NSW.

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

**replenishment flows** means flows provided to unregulated river systems downstream of major headwater dams to address the flow related impacts within those systems caused by dam construction.

**reserves** means the volumes of water put aside in a water storage to provide for future water requirements.

***SDL resource unit shared reduction amount*** has the same meaning as it has in section 1.07 of the Basin Plan.

***supplementary water event*** means a period during which the taking of water under supplementary water access licences is permitted in all or part of the water sources.

***supply capability*** means the rate at which the Minister determines water can be supplied to a segment of the water sources without incurring unacceptable transmission losses.

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

***transmission losses*** means the additional water required to ensure that a specified quantity of water is delivered to a specified delivery point.

***uncontrolled flows*** means flows not able to be captured in a water storage that are in excess of that needed to meet the environmental provisions in Division 1 of Part 10, any replenishment flow made under clause 56, basic landholder rights and water orders placed by access licences.

***water source*** is as defined in clause 4.

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

***water supply system*** means the water storages and all other infrastructure that can influence water supply controlled by the operator, including regulators and weirs.

***water use development*** includes all privately-owned water management structures, all aspects of farm, industry, town or private household development which affect the volumes of water taken from the water sources, and the management practices that are applied in relation to them.

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

## Schedule 1 Barwon-Darling Flow Targets

(clause 47)

### 1 Application

The flow targets under clause 2 of this Schedule apply to clause 47 of this Plan.

### 2 Flow targets

(1) Flows of each of the following:

- (a) 150 ML/day in the Darling River at Wilcannia gauge (425008),
- (b) 280 ML/day in the Darling River at Louth gauge (425004),
- (c) 390 ML/day in the Darling River at Bourke gauge (425003),
- (d) 550 ML/day in the Darling River at Brewarrina gauge (422002),
- (e) 700 ML/day in the Barwon River at Dangar Bridge gauge (422001).

**Note.** This paragraph is intended to protect flows for basic landholder rights along the Barwon-Darling River.

(2) Between September and February inclusive— one flow event for five consecutive days of (a) or (b), provided two such flow events have not already occurred during that period in that water year:

- (a) 14,000 ML/day in the Darling River at Brewarrina gauge (422002),
- (b) 10,000 ML/day in the Darling River at Bourke gauge (425003).

**Note.** This paragraph is intended to provide opportunity for the passage of fish across the major weirs in the Barwon-Darling River.

(3) Between October and April inclusive— one flow event for five consecutive days of 2,000 ML/day in the Darling River at Wilcannia gauge (425008), provided this target has not been reached during the preceding three months.

**Note.** This paragraph is intended to protect flows needed to suppress blue-green algae blooms.