



New South Wales

## **Water Sharing Plan for the Peel Regulated River Water Source 2020**

under the

Water Management Act 2000

I, Melinda Pavey, the Minister for Water, Property and Housing do, by this Order, in pursuance of section 50 of the *Water Management Act 2000*, make the following Minister's plan, being the *Water Sharing Plan for the Peel Regulated River Water Source 2020*.

Dated this                      day of                      2020.

**Minister for Water, Property and Housing**

### **Explanatory note**

This Plan replaces the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010*.

This Order is made under section 50 of the *Water Management Act 2000*. The concurrence of the Minister for Energy and Environment was obtained prior to the making of this Plan.

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# Water Sharing Plan for the Peel Regulated River Water Source 2020

## Part 1 Introduction

### Notes.

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

### 1 Name of this Plan

This Plan is the *Water Sharing Plan for the Peel Regulated River Water Source 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 the matters set out in sections 20 and 21 of the Act, as well as other sections of the Act.

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

### 3 Commencement

This Plan commences on XX XXXXXX 2020.

#### Notes.

- 1 This Plan replaces the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* to the extent to which it applies to the Peel Valley Regulated River.
- 2 In accordance with section 43 of the Act this Plan will have effect for 10 years from X XXXXXX 2020. In accordance with section 43A of the Act, the Minister may extend this Plan for a further period of 10 years after it is due to expire.
- 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 the Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. The *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010* was repealed and replaced by this Plan in relation to the Peel Valley Regulated River, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Peel surface water area.
- 4 **Basin Plan** is defined in the Dictionary.

### 4 Application of this Plan

- (1) This Plan applies to the Peel Regulated River Water Source within the Namoi Water Management Area (*the water source*).

**Note.** The Namoi Water Management Area was constituted by Ministerial order made under section 11 of the *Water Management Act 2000* published in the NSW Government Gazette number 180 on 23 November 2001 at page 9389.

- (2) The water in the water source consists of the water between the banks of the Peel River, from Chaffey Dam water storage, downstream to the intersection of the Peel River and Namoi River that have been declared by the Minister to be a regulated river.

**Note.** The *Regulated River Order for the Peel Valley Regulated Rivers 2018* was made by the Minister under clause 54 of Schedule 12 of the Act, and amended by item [89] of Schedule 1 of the *Water Management Amendment Act 2018*.

## 5 Interpretation

- (1) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the Regulations have the same meaning in this Plan.
- (2) Words and expressions that are defined in the Dictionary at the end of this Plan have the meanings set out in the Dictionary.
- (3) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (5) 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 source and its water-dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (d) 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 source and its water-dependent ecosystems over the term of this Plan.
- (2) The targeted environmental objectives of this Plan are as follows:
  - (a) to protect and contribute to the enhancement of the following over the term of this Plan:
    - (i) 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 source may include known or predicted populations of:
  - (a) native fish including golden perch, eel-tailed catfish and Murray cod,
  - (b) native vegetation including river red gum woodland,
  - (c) high diversity hotspots and significant habitat for native fish, frogs 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.

- (ii) 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 source include fish movement across significant barriers, as identified by NSW Department of Primary Industries Fisheries.
- 3 Connectivity may be within the water source, and between the water source and other water sources.

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

**Note.** Water quality target ranges for the water source are defined in the Water Quality Management Plan for the Namoi surface Water Resource Plan Area SW14 and the NSW State Water Quality Assessment and Monitoring Plan.

- (b) to support environmental watering in the water source to contribute to maintaining or enhancing ecological condition in streams, riparian zones, dependent wetlands and connected water sources.

**Note.** Division 1 of Part 10 outlines the provisions for environmental water allowances (**EWAs**). These EWAs are managed by the NSW Environmental Water Manager.

- (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.

- (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 regimes** are defined in the Dictionary.
- 2 Division 1 of Part 10 contains rules that partially mitigate the alterations to low flows in the natural flow regimes of the water source by ensuring a minimum daily release of 3 ML/day.

- (c) reserve a share of water to maintain longitudinal and lateral connectivity within and between water sources,

**Note.** The provisions in Division 1 of Part 10 contribute to maintaining the hydrological connectivity within the water source and with downstream water sources.

- (d) reserve a share of water to support environmental watering events in streams, riparian zones and wetlands connected to the water sources,  
**Note.** The provisions in Part 10 ensure that environmental water allowances are maintained.
- (e) contribute to the management of critical environmental and water quality events.  
**Note.** The provisions in Division 1 of Part 10 ensure that an environmental water allowance is maintained.
- (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 environmental 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 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 in subclause (3) and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
  - (d) the extent to which external influences on the water source during the term of this Plan have affected progress towards achieving the environmental objectives.  
**Note.** External influences may include climate trends, land use patterns, decisions made by the NSW Environmental Water Manager 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,  
**Notes.**
    - 1 The provisions in Part 9 permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences, assignment of water allocations between access licences and the ability to move the share component of an access licence from one water source to another.
    - 2 Clause 50 create an inter-valley share component trade account that can be set aside to meet water requirements in the Lower Namoi Regulated Water Source.
  - (b) provide a stable and predictable framework for sharing water among water users,  
**Note.** The available water determination provisions in Part 6 and priority of delivery rules in clause 54 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 rules in Part 8 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 provisions in Part 6 manage extractions to different climatic conditions in different years.
  - (e) reserve a share of water to partially mitigate deterioration in water quality due to alterations to natural flow regimes.
- (4) The performance indicator used to measure success 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, as 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 including as demonstrated by:
    - (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, 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 economic benefits of surface 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 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, climate 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 improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
  - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
- (a) manage access to water consistently with the exercise of native title rights,
  - (b) provide for water associated with Aboriginal cultural values and uses,  
**Note.** The provisions in Part 7 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 source,  
**Note.** The provisions in Division 1 of Part 10 partially mitigate the alterations to low, medium and high 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 uses 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 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,
  - (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 provisions 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 source,
  - (c) 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 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 in 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 access licence and local water utility access licence requirements have been met,
  - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,
  - (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
  - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
  - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
  - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,

- (d) the 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 toward achieving the social and cultural objectives.

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

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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 in Part 5,
  - (c) the requirements for water extraction under access licences identified in Part 5,
  - (d) the access licence dealing rules established under Part 9.
- (2) The bulk access regime:
  - (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 above the long-term average annual extraction limit or long-term average sustainable diversion limit 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 6,
    - (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 through provisions contained 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 sections 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 source,
- (b) the long-term average annual commitment of water as planned environmental water,
- (c) the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

### 16 Establishment and maintenance of planned environmental water

(1) Planned environmental water is established in the water source as follows:

- (a) the physical presence of water, resulting from the following:
  - (i) the environmental water rules specified in Division 1 of Part 10,
  - (ii) the limitations on access to uncontrolled flows for regulated river (general security) access licences as specified in Division 2 of Part 8,

**Note.** The rules in Division 1 of Part 10 clause 48 set water aside in Chaffey Dam for the purpose of making releases later in the water year for environmental purposes. These rules also require the release water from Chaffey Dam through to the end of Peel Regulated River Water Source. The provisions in Division 2 of Part 8 protect 50% of uncontrolled flow volumes that arise from unregulated inflows to the water source above the specified flow thresholds for the environment.

- (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,
- (c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the provisions in Part 6 and Part 8.

(2) The planned environmental water established under subclause (1) (a) is maintained by:



- (a) the environmental water rules specified in Division 1 of Part 10,
  - (b) the limitations on access to uncontrolled flows for regulated river (general security) access licences as specified in Division 2 of Part 8.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6.
- (4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Part 6 and Part 8.

**Note.** The provisions in Part 6 of this Plan ensure that there will be water remaining in the water source 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 those limits has been assessed to have been exceeded.

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## 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 source.
- (2) The volumes of water specified in this Part represent the estimated water 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 commencement of this Plan.
- (3) This Plan recognises that requirements for water 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 these water sources may change during the terms of this Plan as a result of:
  - (a) the grant, surrender or cancellation of access licences in the water source, 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 which 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 source under this Plan.

#### 18 Domestic and stock rights

On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights are estimated to total 300 megalitres per year (*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) under any determination of native title, and
- (b) any indigenous land use agreement.

### Notes.

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

## Division 3 Requirements for water under access licences

### Notes.

- 1 The share component estimates 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 licences, as well as other water intended for environmental purposes.
- 2 On the commencement of this Plan, there are two access licences with share components totalling 1,257 unit shares that are not identified as licensed environmental water but are intended to be used for environmental purposes and are also included in this Division. One of these licences is 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 source 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 163 ML/year.

## 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 16,400 ML/year.

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

On the commencement of this Plan, it is estimated that the share components of regulated river (high security) access licences total 804 unit shares.

## 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) licences total 29,635 unit shares.

## 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, and
- (b) a long-term average sustainable diversion limit.

### Division 1 Calculations under this Part

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

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

- (a) the long-term average annual extraction limit under clause 25,
- (b) the average annual extraction under clause 26,
- (c) the annual permitted take under clause 30,
- (d) the annual actual take under clause 30.

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

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

- (a) exclude the following:
  - (i) allocations assigned from an access licence in the water source to an access licence in another water source under section 71T of the Act,
  - (ii) environmental water flows provided for in Division 1 of Part 10,
  - (iii) in relation to average annual extraction under clause 29 only, water committed as licensed environmental water under section 8F of the Act, and
- (b) include the following:
  - (i) allocations assigned to an access licence in the water source from an access licence in another water source under section 71T of the Act,
  - (ii) the extraction of water from Dungowan Dam water storage under a local water utility access licence.

(3) The calculation by the Minister of the long-term average annual extraction limit under clause 25 must be adjusted by a volume that appropriately reflects the following:

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

## Division 2 Long-term average annual extraction limit

### 25 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 source in accordance with this clause and clause 24.
- (2) The long-term average annual extraction limit is the lesser of the following:
  - (a) the average annual extraction, based on the following:
    - (i) the water storages and water use development that existed in the 2007/2008 water year,
    - (ii) the basic landholder rights and access licence share components that existed on 1 July 2010,
    - (iii) the rules set out in the *Water Sharing Plan for the Peel Regulated River Water Source 2010* that applied to the water source as at 1 July 2010,
    - (iv) the level of development for plantation forestry that existed on 30 June 2009,

**Note. *Planation forestry* and *water use development*** are defined in the Dictionary.

- (b) the 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 Peel Regulated River Water Source 2010*,

**Note. *Murray-Darling Basin Agreement*** is defined in the Dictionary.

plus the long-term average annual extraction from Dungowan Dam water storage under a local water utility access licence.

**Note. *Cap baseline conditions*** are defined in the Dictionary.

- (3) For the purposes of subclause (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.

#### 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.

## 26 Calculation of average annual extraction

- (1) Following the end of each water year, the Minister is to calculate average annual extraction from the water source over the preceding ten water years plus average annual extraction from Dungowan Dam water storage by Tamworth Regional Council over the same ten water years.
- (2) If required under clause 28 (2), the Minister is to calculate the sum of the following:
  - (a) the average annual extraction from the water source using the hydrological computer model approved by the Minister, over the duration of available climate records, based on the following:
    - (i) the water storages and water use development that existed in that water year,
    - (ii) the basic landholder rights and access licence share components that existed in that water year,
    - (iii) the rules in this Plan or in the water sharing plan that this Plan replaces, that applied in that water year,
    - (iv) the level of development for plantation forestry in that water year,
  - (b) the long-term average annual extraction from Dungowan Dam water storage by Tamworth Regional Council.

**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.

## 27 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 the following access licences held by Tamworth Regional Council:
  - (a) access licences specified in Schedule 1,
  - (b) access licences resulting from a dealing involving an access licence specified in Schedule 1 (*Tamworth Regional Council access licences*).
- (2) Following the calculation under subclause (1), the Minister is to calculate the growth in extraction by Tamworth Regional Council by calculating the difference between the average annual extraction calculated under subclause (1) and the average annual extraction by the Tamworth Regional Council access licences under Cap baseline conditions.
- (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.

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

- (1) Following the end of each water year, the Minister is to calculate the average annual extraction from the water source over the preceding ten water years plus average annual extraction from Dungowan Dam water storage by Tamworth Regional Council over the same ten water years, based on the development conditions that are used to determine the long-term average annual extraction limit in clause 25 (2) (a).
- (2) If average annual extraction calculated under clause 26 (1) exceeds average annual extraction calculated under subclause (1) by more than 20%, then a calculation in accordance with clause 26 (2) is to be undertaken.
- (3) There is non-compliance with the long-term average annual extraction limit if the sum of average annual extraction calculated under clause 26 (2) minus 95% of the growth in extraction by Tamworth Regional Council as calculated under clause 27, exceeds the long-term average annual extraction limit by 3% or more.

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

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

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for the water source is:
  - (a) the component of the baseline diversion limit the Namoi 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 SDL resource unit as determined under Schedule 2 of the Basin Plan, that in the Minister's opinion is attributable to the water source, minus
  - (c) the component of the shared reduction amount for the Namoi SDL resource unit as determined under section 6.05 of the Basin Plan, that in the Minister's opinion is attributable to the water source.
- (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 average sustainable diversion limit for the Namoi SDL resource unit as specified in Schedule 2 of the Basin Plan covers extractions from the water source, the Upper and Lower Namoi Regulated River Water Sources, the Peel Unregulated River Water Sources and the Namoi Unregulated River Water Sources.
- 3 Schedule 2 of the Basin Plan Specifies a local reduction amount of 10 GL.

### **30 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 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 source.

#### **Notes.**

- 1 Take of licensed environmental water and take under licences held by the Commonwealth Environmental Water Holder are not included in the calculation of annual permitted take and annual actual take 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.

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

- (1) Following the calculation under clause 30 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**

### **32 Action following non-compliance**

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 28 or 31 demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister is to reduce the limit of the sum of available water determinations under clause 33 (2) for regulated river (general security) access licences.

**Note.** Action under this clause will have effect for 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 31 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 in accordance with subclause (1) and (2) is to be taken to the extent to which and only for as long as, the Minister considers the following is necessary:
  - (a) in the case of non-compliance with the long-term average annual extraction limit—to return long-term average annual extraction in the water source minus 95% of the growth in extractions by Tamworth Regional 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) 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, and
  - (b) the proposed actions under this Division.

## **Division 5 Available water determinations**

### **33 General**

- (1) Available water determinations for access licences are to be expressed as one of the following:
  - (a) for an access licence specifying the share component as ML/year—a percentage of the share component,
  - (b) for an access licence specifying the share component as a number of unit shares—megalitres (*ML*) per unit share.
- (2) The sum of available water determinations made for any access licence must not exceed the following in any water year:
  - (a) for an access licence specifying the share components in ML/year— 100% of the access licence share component,
  - (b) for an access licence specifying the share component as a number of unit shares— 1 ML per unit share of the access licence share component or any lower limit determined under clause 36.

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

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 70% of the access licence share component is to be made for domestic and stock access licences.
- (2) Subject to clause 33 (2), further available water determinations may be made for domestic and stock access licences if water is available after making an available water determination for regulated river (high security) access licences in accordance with clause 36 (1).

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

- (1) Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 70% of share components is to be made for local water utility access licences.
- (2) Subject to clause 33 (2), further available water determinations may be made for local water utility access licences if water is available after making an available water determination to regulated river (high security) access licences in accordance with clause 36 (1).

### **36 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 of 0.5 ML per unit share is to be made for regulated river (high security) access licences.
- (2) Following the available water determination made in accordance with subclause (1), the Minister is to assess if water is available for the making of further available water determinations for regulated river (high security) access licences.
- (3) For the purposes of this 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 provide for existing allocations in 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 (4), and
  - (ii) referred to in paragraphs (a) to (d) above.
- (4) If the Minister assesses under subclause (2) that water is available, the Minister is to consider making an available water determination for regulated river (high security) access licences, subject to clause 33 (2).

### **37 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, at least monthly.
- (2) For the purposes of this 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 existing water allocations in access licence water allocation accounts,
  - (f) to account for water losses associated with holding and delivering the water:
    - (i) to be made available as a result of the available water determination under this clause, and
    - (ii) referred to in paragraphs (a) to (e) above.
- (3) If the Minister assesses under subclause (1) that water is available, the Minister is to consider making an available water determination (in ML per unit share) for regulated river (general security) access licences, subject to clause 33 (2).

## 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 the application for specific purpose access licences in accordance with the regulations and the relevant water sharing plan.
- 2 Access licences in the water source are granted subject to mandatory conditions required to be imposed by this Plan, the regulations and the Act, and may also be subject to discretionary conditions.

### 38 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 only 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 limit 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 limits 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

#### 39 Debits from an individual water allocation account

For any access licence, the Minister must debit the volume of water extracted by water supply works nominated by the access licence from the water allocation account of the licence, except where clause 41 applies.

#### 40 Limits on water allocation accounts and carryover

Water allocations remaining in a water allocation account must not be carried over from one water year to the next water year for any category of licence.

### Division 2 Taking of uncontrolled flows

#### 41 Taking of uncontrolled flows under regulated river (general security) access licences

##### Notes.

- 1 This clause is made under section 85 of the Act.
- 2 **Uncontrolled flow** is defined in the Dictionary.
  - (1) The Minister may, by order published on the Department's website, authorise the holders of regulated river (general security) access licences to take water from uncontrolled flows that have not been credited to the water allocation accounts of the licences in accordance with the rules in this clause.
  - (2) The taking of uncontrolled flows that arise from unregulated inflows to the water source, by holders of regulated river (general security) access licences that nominate a water supply work located in a segment of the water source specified in Column 1 of Table A must:

- (a) not be permitted to commence until flows have increased to the start flow specified in Column 3 of Table A as measured at the flow reference point specified in Column 4 of Table A for that segment of the water source, and
- (b) be required to cease when flows have decreased to less than the finish flow specified in Column 5 of Table A as measured at the flow reference point specified in Column 6 of Table A for that segment of the water source,

whenever the sum of available water determinations for regulated river (general security) access licences in the water source is equal to that specified in Column 2 of Table A for the water year for that segment of the water source.

- (3) The taking of uncontrolled flows under subclause (2) must not be permitted to exceed 50% of the forecast uncontrolled flow volume above the finish flow specified in Column 5 of Table A for the segment of the water source as measured at:
  - (a) the most downstream gauge for each segment of the water source, if the sum of available water determinations for regulated river (general security) access licences is less than 0.35 ML per unit of share component in the water year, or
  - (b) Carroll Gap, if the sum of available water determinations for regulated river (general security) access licences is equal to or greater than 0.35 ML per unit of share component in the water year.

**Table A —Uncontrolled flow arising from unregulated inflows**

Column 1 Segment of the water source	Column 2: Total AWD (ML per unit share)	Column 3: Start flow (ML/day)	Column 4: Flow reference points	Column 5: Finish flow (ML/day)	Column 6: Flow reference points
Chaffey Dam to Paradise Weir	Less than 0.35	40	Peel River at Carroll Gap gauge (419006)	5	Any gauge within the segment in Column 1
Paradise Weir to Attunga Creek					
Attunga Creek to the Namoi River					
Chaffey Dam to Paradise Weir	Greater than or equal to 0.35	50	Peel River at Carroll Gap gauge (419006)	50	Peel River at Carroll Gap gauge (419006)
Paradise Weir to Attunga Creek					
Attunga Creek to the Namoi River					

- (4) The taking of uncontrolled flows that arise from environmental water allowance (*EWA*) releases made under clause 49, by regulated river (general security) access licences that nominate a water supply work located from Chaffey Dam to the Peel River at Piallamore gauge (419015) must:
- (a) not commence until the flow arising from a release of water from the EWA is greater than or equal to 50 ML/day, as measured at the Peel River at Piallamore gauge (419015),
  - (b) cease when the flow arising from a release of water from the EWA is less than 50 ML/day, as measured at the Peel River at Piallamore gauge (419015),
  - (c) not be pumped into an on-farm storage.
- (5) The taking of uncontrolled flows that arise from EWA releases made under clause 49, by holders of regulated river (general security) access licences that nominate a water supply work located downstream of the Peel River at Piallamore gauge (419015) must:
- (a) not commence until the flow arising from a release of water from the EWA are greater than or equal to the forecasted flow specified in Column 2 of Table B as measured at the flow reference point specified in Column 3 of Table B, and
  - (b) cease when the flow arising from a release of water from the EWA is less than the finish flow specified in Column 4 of Table B as measured at the flow reference point specified in Column 5 of Table B,

whenever the sum of available water determinations for regulated river (general security) access licences in the water source is equal to that specified in Column 1 of Table B.

**Table B — Flows arising from EWA releases from Chaffey Dam downstream of the Peel River at Piallamore gauge (419015)**

Column 1: Total AWD (ML per unit share)	Column 2: Forecast flow (ML/day)	Column 3: Flow reference points	Column 4: Finish flow (ML/day)	Column 5: Flow reference points
Less than 0.35	40	Peel River at Carroll Gap gauge (419006)	5	Any gauge within the segment to which the announcement applies
Greater than or equal to 0.35	50	Peel River at Carroll Gap gauge (419006)	50	Peel River at Carroll Gap gauge (419006)

- (6) In any water year, the total amount of water permitted to be taken from uncontrolled flows by each regulated river (general security) access licence must not exceed the difference between:

- (a) the sum of available water determinations made for regulated river (general security) access licences in that water year, and
  - (b) the limit of the sum of available water determinations that can be made for regulated river (general security) access licences under clause 33 (2) (b).
- (7) Regulated river (general security) access licence holders must be required to supply the operator with meter readings taken immediately prior to and after the taking of uncontrolled flows within seven days of ceasing to take uncontrolled flow.
- (8) If the total amount of water taken from uncontrolled flows by a regulated river (general security) access licence exceeds the limits specified in subclause (6), then a volume equivalent to the exceedance will be debited from allocations credited to the access licence water allocation account in that water year.

**Note.** It is possible for the limits specified in subclause (6) to be exceeded if available water determinations increase after uncontrolled flows have been extracted.



## Part 9 Access licence dealing rules

### Notes.

- 1 Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made 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 imposed 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 source.

### 42 Conversion of access licence to new category dealings

Dealings under section 71O of the Act are prohibited.

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

- (1) A dealing under section 71Q of the Act within the water source is prohibited if the dealing is from a regulated river (high security) access licence that does not nominate a water supply located downstream of Jewry Street Bridge over the Peel River to a regulated river (high security) access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River.
- (2) A dealing under section 71Q of the Act that is from or to an access licence in another water source is prohibited unless the dealing involves all of the following:
  - (a) the dealing is to an access licence in the Lower Namoi Regulated River Water Source,
  - (b) a conversion factor of 0.5 is applied to the increase in share component,
  - (c) the sum of share components of the following do not exceed 15,000:
    - (i) the share components assigned from the water source from a dealing under section 71Q of the Act in accordance with this subclause, and
    - (ii) the share components of an access licence cancelled from a dealing under section 71R of the Act in accordance with clause 44.

### 44 Amendment of share component dealings (change of water source)

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

- (a) the cancellation of an access licence with a share component that specifies the water source,

- (b) the issuing of an access licence with a share component that specifies the Lower Namoi Regulated River Water Source,
- (c) the share component of the access licence issued being equal to 0.5 times the share component of the cancelled access licence,
- (d) the sum of share components of the following does not exceed 15,000:
  - (i) the share components of cancelled access licences from dealings under section 71R of the Act in accordance with this clause, and
  - (ii) the share components assigned from the water source from dealings under section 71Q of the Act in accordance with clause 43 (2).

**Note.** Rules for an inter-valley trading account, as set out in clause 50 of this Plan will come into effect when dealings under this clause and clause 43 (2) exceed 7,500 ML.

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

- (1) Dealings under section 71U of the Act involving the interstate transfer of an access licence to or from the water source are prohibited.
- (2) Dealings under section 71V of the Act involving the interstate assignment of water allocations to or from the water source are prohibited.

#### **46 Assignment of water allocations dealings**

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

- (a) if no available water determination has been made for regulated river (general security) access licences and the dealing involves an assignment of water allocation from an access licence that does not nominate a water supply work located downstream of the Jewry Bridge over the Peel River to an access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River,
- (b) the dealing involves an assignment of water allocation to or from an access licence in another water source.

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

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

- (a) the dealing involves a regulated river (high security) access licence that does not nominate a water supply work located downstream of the Jewry Street Bridge over the Peel River being amended to nominate a water supply work located downstream of the Jewry Street Bridge over the Peel River,

- (b) the dealing involves a regulated river (high security) access licence that nominates a water supply work located downstream of the Jewry Street Bridge over the Peel River being amended to nominate a water supply work located downstream of the original water supply work,
- (c) the dealing involves an access licence in the water source being amended to nominate a water supply work located in another water source.

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## Part 10 System operation requirements

**Note.** *Operator* and *NSW Environmental Water Manager* are defined in the Dictionary.

### Division 1 Environmental flow rules

#### 48 Minimum daily flow rules

- (1) The operator is required to ensure that a minimum daily release of 3 ML is made from Chaffey Dam unless:
  - (a) a release of greater than 3 ML/day is required to meet basic landholder rights and access licences that have placed orders for water, or
  - (b) a release is being made under clause 50.
- (2) Subclause (1) does not apply if an authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019* in relation to the development of the Chaffey Dam to Dungowan Village pipeline is in force.

**Note.** If an authorisation referred to above is in force, alternate rules will apply as set out in the authorisation.

#### 49 Environmental water allowance rules

- (1) The operator must maintain an environmental water allowance (*EWA*) for environmental purposes in the water source, as set out in this clause.
- (2) The operator must keep an account of water credited to and debited from the EWA.
- (3) Whenever an available water determination for regulated river (general security) access licences is made in accordance with subclause 37, the operator is to credit the EWA with an amount equal to 5,000 multiplied by the available water determination.
- (4) The operator is to make releases from the EWA in accordance with an order made by the NSW Environmental Water Manager and any procedures established by the Minister with the concurrence of the Minister for the Environment.
- (5) The operator is to debit the EWA with the lesser of the amount that the NSW Environmental Water Manager orders to be released in accordance with subclause (4), and the amount that the operator releases.
- (6) The taking of water released from the EWA by regulated river (general security) access licences is permitted to the extent specified in clause 41.
- (7) Any unused water remaining in the EWA at the end of the water year must not be carried over to the following water year.

## 50 Inter-valley trading account rules

- (1) The operator is to establish and maintain an inter-valley trading account in Chaffey Dam water storage when the sum of share components of access licences:
  - (i) with a share component that specifies the water source, and
  - (ii) that were subject to a dealing under section 71Q in accordance with clause 43 (2) or a dealing under section 71R in accordance with clause 44

exceed 7,500.

- (2) The operator is to credit the inter-valley trading account established under subclause (1) with an amount equal to any subsequent available water determination made for regulated river (general security) access licences multiplied by 50% of the sum of share components of access licences:
  - (a) with a share component that specifies the water source, and
  - (b) that were subject to a dealing under section 71Q of the Act in accordance with clause 43 (2) or a dealing under section 71R of the Act in accordance with clause 44.

**Note.** The maximum volume of the inter-valley trading account is 3,750 ML.

- (3) The operator must release water from the inter-valley trading account to ensure the water requirements in the Lower Namoi Regulated River Water Source are met.
- (4) The operator cannot use inter-valley trading account releases to satisfy any water requirements in the water source.
- (5) The operator is to debit the inter-valley trading account with the amount of water released in accordance with subclause (4) that is assessed by the operator to have flowed past Peel River at Carroll Gap gauge (419006).
- (6) Any unused water remaining in the inter-valley trading account at the end of the water year must not be carried over to the following water year.

## 51 Consultation

The NSW Environmental Water Manager may consult with any government agency or the Environmental Water Advisory Group (*EWAG*) established by the Minister for the Environment for the water source, or both, and consider any relevant advice, before taking action under this Division.

**Notes.** As at July 2020, the Minister has conferred the lead role in managing environmental water allowances established under water sharing plans to the Department of Planning, Industry and Environment – Environment, Energy and Science (EES). EES also administers and supports EWAGs to inform the management of environmental water allowances and licensed environmental water. For more information on EWAGs, see Cooperative management of environmental water to improve river and wetland health in NSW (2014), available at the following website: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

## Division 2 General system operations rules

### 52 Maintenance of water supply

- (1) In this clause, the period of lowest accumulated inflows to the water source is identified by flow information held by the Department prior to 1 July 2010.
- (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 source, to meet the following:
  - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights,
  - (b) available water determinations for domestic and stock access licences and local water utility access licences of 70% of share components,
  - (c) available water determinations for regulated river (high security) access licences of 0.5 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 source and in reserves held in Chaffey Dam water storage.

**Note.** *Reserves* and *water supply system* are defined in the Dictionary.

### 53 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 source 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, and

**Note.** *Transmission losses* is defined in the Dictionary.

- (d) the capacities of structures in the water supply system.

**Note.** There are no defined channel constraints at the commencement of this Plan.

### 54 Priority of delivery for access licences and EWA water

If supply capability due to channel capacity is insufficient in any segment of the water source to satisfy all water orders, basic landholder rights and the delivery of EWA water, 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 and EWA deliveries that have been ordered, in accordance with any procedures established by the Minister with the concurrence of the Minister for the Environment.

**Notes.**

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

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

When 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.

## **56 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).

## **57 Dam operation during floods and spills**

- (1) The operator must operate Chaffey Dam during times of flood and spilling of water from the dam 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.

## 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

#### 58 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.

#### 59 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 this 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 in accordance with an order made under clause 41 that permits the taking of uncontrolled flows or EWA releases by regulated river (general security) access licences,
  - (c) any other condition required to implement the provisions of this Plan.
- (2) Each access licence must have mandatory conditions requiring that the licence holder must not take water unless it has been ordered in accordance with procedures established by the Minister.
- (3) Each regulated river (general security) access licences must have a mandatory condition that the licence holder may only take water from uncontrolled flows in accordance with any order made by the Minister under clause 41.



### Division 3 Water supply work approvals

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

#### 60 General conditions

- (1) Water supply work approvals 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 subclauses 90 (1) (f) and (g) of the *Water Sharing Plan for the Peel Regulated River Water Source 2010* (metering requirements), 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 subclauses 90 (1)(a), (b), (c), (d) and (e) of the *Water Sharing Plan for the Peel Regulated River Water Source 2010* (recording and reporting requirements), 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) Subclauses (4) to (6) do not apply to approvals for water supply works held by WaterNSW provided the approval is not nominated by an access licence.
- (8) Without limiting subclauses (1) to (6), water supply works must have mandatory conditions as required to implement the provisions of this Plan.
- (9) Water supply work approvals held by WaterNSW must have mandatory conditions to give effect to the provisions in Part 10.
- (10) The water supply work approval held by WaterNSW authorising the operation of Chaffey Dam must have a mandatory condition to give effect to the conditions of any authorisation under section 8 of the *Water Supply (Critical Needs) Act 2019* in relation to

the development of the Chaffey Dam to Dungowan Village pipeline, that refer to the operation of the Dam or the release of water from it.

- (11) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (4) ceases to have effect in relation to the work on the day on which the condition applies to the approval.
- (12) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclause (5) ceases to have effect in relation to the work on the day on which the condition applies to the approval.

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

- (13) Subclauses (4), (5), (11) and (12) 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 source in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

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

## 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 source 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.

### 61 General

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

### 62 Amendments relating to Part 1

Part 1 may be amended to add, modify or remove a river or segment of a river, to or from the water source 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 the water available to the environment under Division 1 of Part 10 or on the available water to any access licence in the water source.

### 63 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.

### 64 Amendments relating to Part 6

Part 6 may be amended to do any of the following:

- (a) establish alternate rules to the two-step process for assessing compliance with the long-term average annual extraction limit in Division 2,
- (b) establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limit for the water source, the Upper Namoi Regulated River Water Source, the Lower Namoi Regulated River Water Source and the Namoi Unregulated Rivers Water Sources in Division 3.

### 65 Amendments relating to Part 8

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

- (a) to replace the individual access licence account management rules for access licences in the Peel Regulated River Water Source following any enlargement of Chaffey Dam, and
- (b) to increase the flow threshold of 50 ML/day to 100 ML/day specified in Table A to clause 41, if the total pump capacity of water supply works nominating regulated river (general security) access licences authorising extraction between Chaffey Dam and Peel River at Piallamore gauge (419015) increases by 20% or more than that which occurred at the commencement of this Plan.

## **66 Amendments relating to Part 9**

Part 9 may be amended to specify rules for extraction component dealings under section 71S of the Act.

## **67 Amendments relating to Part 10**

Part 10 may be amended to do any of the following:

- (a) establish alternate environmental flow rules that better align with the Namoi Long Term Water Plan, subject to there being no increased impact on total average annual extractions permitted under the long-term average annual extraction limit applying at the commencement of this Plan,
- (b) provide for the carryover of water remaining in the EWA from one water year to the next.

## **68 Schedules**

Schedule 1 may be amended to add or remove an access licence.

## **69 Dictionary**

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

## **70 Other amendments (general)**

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

- (2) 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.

- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

## Dictionary

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

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

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

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

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

**broad objectives** define the desired long-term outcomes of this Plan, and progress is evaluated by considering the cumulative achievement of the associated targeted objectives.

**Cap baseline conditions** are as agreed under the Murray Darling Basin Agreement that was in place at the commencement of the *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010*.

**EWA** means the environmental water allowance referred to in clause 31.

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

**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.

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

**NSW Environmental Water Manager** means the NSW Government department or agency whose responsibility it is to manage licensed environmental water that is held by the NSW Government.

**Note.** At the commencement of this Plan, this is the NSW Department of Planning, Industry and Environment – Environment, Energy and Science (EES).

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

**Note.** At the commencement of this Plan, this is WaterNSW.

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

**rainfall runoff** means that portion of rainfall that runs off the land.

**supply capability** means the rate at which the Minister determines water can be supplied to a segment of the water source 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.

**the water source** means the Peel Regulated River within the Namoi Water Management Area.

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

**uncontrolled flow** means flow in excess of that needed to meet the following:

- (a) the environmental provisions in Division 1 of Part 10, including flows arising from EWA releases that are greater than the volumes specified in subclauses 41 (4) or (5),
- (b) basic landholder rights,
- (c) water orders placed by access licences.

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

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

***water use development*** means all privately-owned water management structures, and all aspects of farm, industry, town or private household development that affect the volumes of water taken from the water source, 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.

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**Schedule 1 Licences authorising the extraction of water for town water supply purposes for the City of Tamworth**

<b>Water Access Licences</b>
20907
20953
23982

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